

**LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL  
(Adopting Rules of Procedure and Setting April 14, 2005 Hearing on Appeal from Proposed  
Adjustment to Sif Oidak District's Schedule of Representative)**

**LEGISLATIVE ORDER NO. 05-163**

1 **WHEREAS, the Tohono O'odham Legislative Council is vested with jurisdiction to hear appeals**  
2 **from a district's adjustment of its schedule of representatives pursuant to Article VI,**  
3 **Section 3(B) of Ordinance No. 03-86, the Uniform Election Ordinance ("Election**  
4 **Ordinance"); and**

5 **WHEREAS, the Council has received Chuichu community representatives' appeal regarding the**  
6 **proposed adjustment of the Sif Oidak District's schedule of representatives and the**  
7 **Election Board's denial of the adjustment; and**

8 **WHEREAS, it is necessary to adopt procedures governing such appeals in order to provide a fair**  
9 **and timely hearing in accordance with due process of law; and**

10 **WHEREAS, the Rules Committee has developed the below "Rules of Procedure for Appeal from**  
11 **Proposed District Schedule of Representatives Adjustment" and recommends its**  
12 **adoption.**

13 **NOW, THEREFORE, BE IT ORDERED THAT (1) a hearing on the appeal from the**  
14 **proposed adjustment to the Sif Oidak District's schedule of representatives ("Sif**  
15 **Oidak District Schedule Appeal") shall be held on April 14, 2005 at 1:00 p.m. in the**  
16 **Legislative Council chambers, provided that all Legislative Council representatives**  
17 **shall be present for orientation on the hearing rules at 9:00 a.m. on that date, and (2)**  
18 **the below Rules of Procedure for Appeal from Proposed District Schedule of**  
19 **Representatives Adjustment are hereby adopted and shall govern the Sif Oidak**  
20 **District Schedule Appeal:**

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**RULES OF PROCEDURE FOR APPEAL FROM PROPOSED DISTRICT  
SCHEDULE OF REPRESENTATIVE ADJUSTMENT**

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4       **1.     Filing Appeal. The village, community, or member appealing a district's adjustment**  
5       **of its schedule of representatives pursuant to Article VI, Section 3(B) of Ordinance No.**  
6       **03-86, the Uniform Election Ordinance ("Election Ordinance"), shall file twenty-six**  
7       **(26) copies of a brief written statement describing the grounds for the appeal and any**  
8       **supporting exhibits (collectively, "Appeal") with the Tohono O'odham Legislative**  
9       **Council Secretary during normal business hours.**
- 10       **2.     Hearing Schedule. The Tohono O'odham Legislative Council shall set a hearing to be**  
11       **held within thirty (30) days after receiving such an Appeal. Copies of the Appeal shall**  
12       **be distributed to members of the Tohono O'odham Legislative Council before a vote**  
13       **is taken on the legislative order setting the appeal hearing.**
- 14       **3.     Notice. After the appeal hearing is set, the village, community, or member(s) filing the**  
15       **appeal ("Appellant"), the Chairperson of the District whose adjustment is being**  
16       **challenged shall, not less than seven (7) calendar days before the hearing, be served**  
17       **personally or by registered mail, return receipt requested, with a copy of the**  
18       **legislative order setting the hearing, a copy of these Rules, and a hearing notice**  
19       **identifying the time, date and place of the hearing. The Election Board Chairperson**  
20       **shall likewise be served with the order, Rules, and hearing notice not less than five**  
21       **(5) calendar days before the hearing. The District Chairperson and Election Board**  
22       **Chairperson shall also be served with a copy of the Appeal with the hearing notice.**
- 23       **4.     Response. The District and Election Board may each file twenty-six (26) copies of a**  
24       **written response and any supporting exhibits (collectively, "Responses") with the**  
25       **Legislative Council Secretary during normal working hours within five (5) working**  
26       **days after being served with the notice of hearing. Copies of the Responses shall be**  
27       **distributed to members of the Tohono O'odham Legislative Council.**



1                   of the public may observe the hearing. The hearing shall be closed to the press unless  
2                   prior permission is given by the Legislative Council.

3           **12.   Legal Representation.** The Appellant, Election Board and District each shall have the  
4           right to be represented by an attorney or other representative but shall each bear  
5           their own costs for such representation. The Legislative Council's attorney shall be  
6           present to advise the Presiding Officer, the Clerk, and the Legislative Council.

7           **13.   Documentary Evidence.** The Appellant, District and Election Board shall file with the  
8           Legislative Council Secretary twenty-six (26) copies of each document they intend to  
9           introduce at the hearing. Except by a majority vote of members of the Legislative  
10          Council present, no document, other than those filed with the Secretary, shall be  
11          produced or accepted into evidence at the hearing by the parties.

12          **14.   Legislative Rules.** The Presiding Officer may refer to the Legislative Rules of the  
13          Tohono O'odham Council for guidance on procedures or rules not provided in these  
14          hearing rules.

15          **15.   Rules of Evidence; Objections.** All testimonial and documentary evidence must be  
16          relevant to the issues raised by the appeal or valid defenses to the appeal. Other rules  
17          of evidence applicable in judicial proceedings shall not apply. Decisions relating to  
18          limitations on testimony, the form and extent of questioning, and other procedural  
19          matters may be resolved by the Presiding Officer or may be referred to the Council for  
20          resolution at the Presiding Officer's direction.

21          **16.   Appearance.** On the day set for the hearing, the business of the Council shall be  
22          suspended except as otherwise ordered by the Council, and the Council shall convene  
23          the hearing. If the Appellant fails to appear, the appeal shall be dismissed. If the  
24          Appellant does appear, the Appeal statement shall be read or, if the statement is  
25          lengthy, may be summarized. The Presiding Officer shall call the District  
26          Chairperson and Election Board Chairperson or their designees or representatives

1           to appear and respond by indicating whether the District or the Election Board  
2           contests the Appeal. The Clerk shall record any responses to the Appeal by or on  
3           behalf of the District and Election Board. If neither the District nor the Election  
4           Board contests the Appeal, judgement shall be entered for the Appellant and the  
5           District's proposed adjustment to its schedule of representatives shall be declared  
6           valid. If the District Chairperson or the Election Board Chairperson appears and  
7           contests the Appeal or any part of the Appeal, the Council shall immediately hear the  
8           Appeal. If the District Chairperson or Election Board Chairperson does not appear,  
9           either personally or by counsel, the failure to appear shall be recorded and the  
10          hearing shall be conducted as though the Appeal is contested.

11          17.    **Instructions.** At any time, the Presiding Officer may request instructions from the  
12          Council on procedural matters.

13          18.    **Maintaining Order.** The Presiding Officer shall have the power to preserve order and  
14          to make all lawful orders that may be necessary for that purpose. Persons attending  
15          the proceedings will, at the direction of the Presiding Officer, be ejected from the  
16          Council chambers by the Marshall if they are under the influence of drugs or alcohol,  
17          or in any way interrupt, disrupt or interfere with the proceedings.

18          19.    **Relevance of Documentary Evidence.** Any motion to challenge the relevance of any  
19          documentary evidence submitted and disclosed to the opposing party in advance of  
20          the hearing may be made in writing or made orally prior to opening statements. Any  
21          arguments related to such motions shall not exceed a total of fifteen minutes, unless  
22          extended by a majority vote. The Presiding Officer shall rule upon any objections to  
23          the relevance of documentary evidence or may instruct the Council to decide by roll  
24          call vote whether the evidence is relevant and shall be heard or is irrelevant and not  
25          be heard.



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After cross-examination, members of the Legislative Council may question the witness for a reasonable period of time to be determined by the Presiding Officer. Re-direct and re-cross-examination may be limited by the Presiding Officer.

**(f) District's Witnesses.** After all Appellant's witnesses have been heard, the District may call and question witnesses, and introduce documents or other evidence provided that twenty-six (26) copies of such documents or evidence have been submitted to the Legislative Secretary as required pursuant to Section 11 of these Rules. At the conclusion of any witness's testimony, first the Appellant and then the Election Board may cross-examine the witness. After cross-examination, members of the Legislative Council may question the witness for a reasonable period of time to be determined by the Presiding Officer. Re-direct and Re-cross-examination may be limited by the Presiding Officer.

**(g) Election Board's Witnesses.** After all the District's witnesses have been heard, the Election Board may testify, call and question witnesses, and introduce documents or other evidence provided that twenty-six (26) copies of such documents or evidence have been submitted to the Legislative Secretary as required pursuant to Section 11 of these Rules. At the conclusion of any witness's testimony, first the Appellant and then the Election Board may cross-examine each witness called. After cross-examination, members of the Legislative Council may question the witness for a reasonable period of time to be determined by the Presiding Officer. Re-direct and re-cross-examination may be limited by the Presiding Officer.

**(h) Additional Witnesses and Evidence.** The Council may, at the Presiding Officer's direction or by majority vote, call other witnesses having relevant information pertaining to the adjustment. Members of the Legislative Council may question the witness for a reasonable period of time to be determined by the Presiding

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**Officer. At the conclusion of the witness's testimony, the Appellant may cross-examine the witness, followed by the District, and then the Election Board.**

**22. Closing Arguments. After all witnesses have been heard, the Appellant shall have the opportunity to make a closing argument in support of the proposed adjustment to the District's schedule of representatives. The District shall then have the opportunity to make a closing argument, followed by the Election Board's closing argument. Each closing arguments shall be limited to thirty (30) minutes. The time allotted for closing argument may be extended by a majority vote.**

**23. Verdict and Judgment.**

**(a) Voting. After closing arguments, a single vote shall be taken and all members of the Council present at the hearing shall be required to vote on the question whether to grant or deny the Appeal.**

**(b) Verdict. A majority vote to grant the appeal means the Council has found that the Election Board's denial of the District's proposed adjustment to its schedule of representatives was invalid under the laws of the Nation. If the appeal is granted, the District's official schedule of representative shall be amended prior to the next general election to include the adjustment that was authorized by the District and that is the subject of the appeal. A majority vote to deny the appeal means the Council has determined that the proposed adjustment was invalid or there was insufficient evidence to grant the appeal. If the appeal is denied, the adjustment that was previously certified to the Election Board prior to the events giving rise to the appeal shall remain in effect.**

**(c) Order. A legislative order reflecting the Legislative Council's verdict shall be executed and copies provided by the Secretary of the Council to the parties and Chairperson of the Election Board within five (5) business days following the date of the decision.**



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24. Pursuant to the Election Ordinance, Article VI, Section 3(B), the decision of the Legislative Council shall be final.

The foregoing Order was passed by the Tohono O'odham Legislative Council on the 05<sup>TH</sup> Day of APRIL, 2005 at a meeting at which a quorum was present with a vote of 2,629.7 FOR; -0- AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Section 1 (a) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

  
\_\_\_\_\_  
Isidro Lopez, Legislative Chairman

ATTEST:

  
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Lucille Lopez, Acting Legislative Secretary

**ACTION: ADOPTING RULES OF PROCEDURES AND SETTING APRIL 14, 2005 HEARING ON APPEAL FROM PROPOSED ADJUSTMENT TO SIF OIDAK DISTRICT'S SCHEDULE OF REPRESENTATIVE**

**MOVED: COUNCILWOMAN EVELYN JUAN**

**SECOND: COUNCILWOMAN FRANCES CONDE**

**DATE: APRIL 05, 2005**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>SIF OIDAK 192.6</b>	1. ISIDRO LOPEZ (Nicholas Jose)	96.30	X			
	2. DARLENE ANDREW (Rita Martinez)	96.30	X			
<b>SELLS 465.6</b>	1. DENNIS E. JOSE ( )	232.80	X			
	2. EVELYN JUAN ( )	232.80	X			
<b>SCHUK TOAK 176.1</b>	1. FRANCES B. CONDE ( )	88.05	X			
	2. PHYLLIS JUAN ( )	88.05	X			
<b>SAN XAVIER 215.4</b>	1. FELICIA NUÑEZ (Olivia Liston-Villegas)	107.70	X			
	2. DENNIS RAMON (Eleanor Hunter)	107.70	X			X
<b>SAN LUCY 166.3</b>	1. JOHN W. LAWSON, SR. ( )	83.15	X			X
	2. GLORIA RAMIREZ ( )	83.15	X			
<b>PISINEMO 175.4</b>	1. BARBARA SALVICIO ( )	87.70	X			X
	2. PATRICIA CRUZ ( )	87.70	X			
<b>HICKIWAN 170.3</b>	1. DELMA GARCIA (Mary E. Sam)	85.15	X			X
	2. SANDRA ORTEGA ( )	85.15	X			
<b>GU VO 191.4</b>	1. RAYMOND VICTOR ( )	95.70	X			
	2. MICHAEL FLORES (Willard Manuel)	95.70	X			
<b>GU ACHI 253.6</b>	1. TIMOTHY L. JOAQUIN (Jonas Robles)	126.80	X			
	2. JEROME JOAQUIN (Roberta Picard)	126.80	X			
<b>CHUKUT KUK 258.9</b>	1. KENNETH WILLIAMS (Absent) (Juanita Homer) (Present)	129.45	X			
	2. VERLON M. JOSE (David Garcia)	129.45	X			
<b>BABOQUIVARI 364.1</b>	1. FRANCES MIGUEL ( Lucilda Norris-Valenzuela)	182.05	X			
	2. FRANCES G. ANTONE ( )	182.05	X			
<b>TOTAL</b>		<b>2,629.7</b>	<b>2,629.7</b>	<b>-0-</b>	<b>-0-</b>	<b>[04]</b>

**\*\*PASSED VOTES**