



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
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Tahlequah, OK 74464

Legislation Text

File #: CNCA-11, **Version:** 1

TITLE 11 - CITIZENSHIP **Code of Federal Regulations**

Preparation of rolls of Indians, see 25 C.F.R. § 61.1 et seq.

Enrollment appeals, see 25 C.F.R. § 62.1 et seq.

United States Code

Distribution of judgment fund, see 25 U.S.C. § 991 et seq.

CHAPTER 1

GENERAL PROVISIONS

Cross References

Motor vehicle licensing and tax, definitions, see 68 CNCA § 1304.

§ 1. Title

This title shall be known as the "Cherokee Nation Citizenship Act."

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 16-02, eff. May 21, 2002.

Cross References

Challenges, see 26 CNCA § 37.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 2. Purpose

The purpose of this act is to establish the policies and procedures governing the issuance of tribal citizenship.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Challenges, see 26 CNCA § 37.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 3. Definitions

A. **"Adopted person"** means a person whose biological parents' parental rights have been awarded to another or other persons pursuant to court order, judgment or decree, or an orphaned person who has been formally adopted by another person or other persons in accordance with the law. **"Adoptive parent"** means a person who has been awarded permanent care, custody and parental rights of another person pursuant to a final court order, judgment or decree of adoption.

B. **"Applicant"** means a person submitting an application for enrollment in Cherokee Nation.

C. **"Base roll"** means a specific list of individuals used for determining tribal citizenship. One must prove back directly to an individual who is listed by blood on a base roll. The base roll as used herein means those final rolls otherwise known as the Dawes Commission Rolls or the Final Rolls. The Final Rolls were closed in 1907. Those Final Rolls by Blood used for citizenship purposes are (1) Cherokees by Blood, (2) Cherokee Minors by Blood, (3) Delaware Cherokees, and (4) Shawnee Cherokees.

D. **"Certificate of Degree of Indian Blood"** means the official document issued by the Bureau of Indian Affairs (BIA) stating a person's degree of Indian blood. The CDIB is an acceptable document used to meet the necessary evidence requirements. The CDIB is not an enrollment/citizenship document.

E. **"Cherokee Register"** means the current citizenship roll of the Nation and is maintained by the Registrar.

F. **"Citizen," "enrolled citizen" and "tribal citizen"** mean any person who, having met all requirements to be a citizen of Cherokee Nation under Article III of the Constitution [now Article IV], is enrolled on the Cherokee Register in accordance with the provisions of this Title, except that the term **"citizen"** also includes any original enrollee and any newborn child who qualifies for citizenship under the provisions of 11 CNCA § 11A,

whether or not such enrollee or child has been enrolled on the Cherokee Register. Provided, however, any such newborn child shall no longer be a citizen when the period of his or her temporary citizenship expires as provided in 11 CNCA § 11A unless the child is otherwise enrolled on the Cherokee Register in accordance with the provisions of 11 CNCA §§ 11, 12, 13 and 14.

G. **"Direct ancestors"** means those persons who are the biological parents, grandparents, great-grandparents, etc., through whom enrollment rights are claimed. Collateral relations such as brothers, sisters, nieces, nephews, cousins, etc., are not direct ancestors. **"Direct descendant"** means a person who is the biological child, grandchild, great-grandchild, etc., of a direct ancestor who is or was an original enrollee.

H. **"Enrollment"** means the process for applying to be formally recognized or registered as a citizen of Cherokee Nation.

I. **"Member"** means, for the purposes of this title, a citizen as defined in this section.

J. **"Nation"** means Cherokee Nation.

K. **"Necessary evidence"** means the documents that clearly establish relationships from one generation to another and that the person has a direct ancestor on the Dawes Rolls. These documents must be state-certified copies of the original birth and/or death records. These records are issued by state vital statistics offices. Other acceptable records are court-ordered determinations or a CDIB issued by the BIA.

L. **"Original enrollee"** means an individual whose name is listed on the Final Rolls.

M. **"Registrar"** means the person who has the immediate administrative jurisdiction over the affairs of registration for enrollment/citizenship.

N. **"Registration Committee"** means the Registrar and two assistants.

O. **"Sponsor"** means a person who is acting on behalf of a minor or an incompetent adult in (i) submitting an application for tribal citizenship, (ii) requesting the release of records or information pursuant to 11 CNCA § 33, (iii) requesting and submitting a tribal citizenship relinquishment form pursuant to 11 CNCA § 34, or (iv) any other dealings with the Registrar which relate in any respect to tribal citizenship; and

1. in the case of a minor, a biological parent of such minor whose parental rights relating to the minor have not been terminated by a court of law, or a duly-appointed legal guardian, adoptive parent, child welfare social worker, or other representative with power and authority over the care, custody and welfare of such minor; or

2. in the case of an incompetent adult, a duly-appointed legal guardian or other representative with power and authority over the affairs, care, custody and welfare of such incompetent adult; or

3. whenever acting on behalf of either a minor citizen or an incompetent adult citizen, and subject to the provisions of 11 CNCA § 34(A), any adult person determined by the Registrar to have unambiguous authority in writing to act on behalf of the minor or incompetent adult for tribal citizenship purposes signed by a person who is qualified to be a sponsor under paragraph (1) or (2) of this subsection.

The Registrar may require any person purporting to be the Sponsor of a minor or incompetent adult to furnish any and all documents, written or oral statements, affidavits, or court records which, at the discretion of the

Registrar, may be necessary to demonstrate that the person is qualified to act as a Sponsor pursuant to this subsection. Provided, however, the Tribal citizenship of any person who otherwise meets the requirements of citizenship in Cherokee Nation and has been enrolled on the Cherokee Register pursuant to this Title shall not be revoked or rendered invalid for the reason that his or her application for Tribal citizenship was submitted by a person not qualified to act as a Sponsor under this section.

P. **"Tribal citizenship relinquishment form"** means any form approved for use by the Registrar in connection with the relinquishment of a person's citizenship pursuant to the provisions of this Title.

Q. **"Tribal membership"** and **"tribal citizenship"** mean a person's status as a citizen of Cherokee Nation.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 2-93, eff. August 11, 1993.

Amended. LA 16-02, eff. May 21, 2002.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Challenges, see 26 CNCA § 37.

Constitutional Convention Commission, definitions, see 73 CNCA § 102.

Elections, general provisions, definitions, see 26 CNCA § 3.

Relinquishment, see 11 CNCA § 34.

United States Code

Bureau of Indian Affairs, see 25 U.S.C. § 1 et seq.

CHAPTER 2

POLICIES AND PROCEDURES FOR CITIZENSHIP APPLICATIONS

§ 11. Requirements of the applicant

A. An applicant or sponsor has the burden of proof to establish the eligibility of the applicant.

B. An applicant or sponsor who knowingly files false or fraudulent information will be rejected for enrollment and may be subject to criminal prosecution.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Citizenship, general provisions, definitions, see 11 CNCA § 3.

Elections, general provisions, definitions, see 26 CNCA § 3.

Relinquishment, see 11 CNCA § 34.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 11A. Temporary automatic citizenship of newborn children

A. This section 11A is enacted as an amendment to the Cherokee Nation Citizenship Act for the specific purpose of protecting the rights of Cherokee Nation under the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq.

B. Notwithstanding any provisions of this Title to the contrary, every newborn child who is a direct descendant of an original enrollee shall be automatically admitted as a citizen of Cherokee Nation for a period of two hundred forty (240) days following the birth of the child. No request or application for tribal citizenship or other documentation need be submitted or delivered to the Registrar as a prerequisite to the temporary tribal citizenship of a child under this section. Such temporary tribal citizenship shall be effective automatically from and after the birth of the child for all purposes although the name of the child is not entered on the Cherokee Register.

C. The temporary tribal citizenship granted to a child pursuant to subsection (A) of this section shall automatically expire without notice to the child or to the sponsor or any other interested person, at the end of the two hundred forty- (240) day period following the child's birth. Any citizen whose temporary tribal citizenship has expired pursuant to this section may apply for citizenship pursuant to 11 CNCA §§ 11, 12, 13 and 14.

D. The Registrar may, at the request of Cherokee Nation Children's Services, on his own initiative or pursuant to 11 CNCA § 13(C), determine whether or not a child qualifies for temporary tribal citizenship pursuant to this section. A determination by the Registrar that such child does not so qualify may be appealed by a sponsor in accordance with 11 CNCA §§ 21 through 27, inclusive.

History

Source. LA 2-93, eff. August 11, 1993.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Citizenship, general provisions, definitions, see 11 CNCA § 3.

Elections, general provisions, definitions, see 26 CNCA § 3.

United States Code

Congressional findings, see 25 U.S.C. § 1901 et seq.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 12. Citizenship requirements

A. Tribal citizenship is derived only through proof of Cherokee blood based on the Final Rolls.

B. The Registrar will issue tribal citizenship to a person who can prove that he or she is an original enrollee listed on the Final Rolls by Blood or who can prove to at least one direct ancestor listed by blood on the Final Rolls.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Citizenship, general provisions, definitions, see 11 CNCA § 3.

Elections, general provisions, definitions, see 26 CNCA § 3.

Relinquishment, see 11 CNCA § 34.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 13. Procedures

A. Applications for tribal citizenship should be completed by the applicant. A sponsor may complete the application, if the person is legally incompetent or a minor child.

B. Requests for applications for tribal citizenship should be made to the Registrar.

C. If the Registrar determines that the person has failed to submit acceptable documentation to establish his or her identity as the tribal citizen named in the records or his or her relationship to an ancestor by blood named in the records, the Registrar must deny the request. The denial must be in writing and mailed by certified mail. It must be received by the addressee only and a return receipt requested. The denial letter shall explain fully the reason(s) for rejecting the application and the right of appeal of the applicant.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Citizenship, general provisions, definitions, see 11 CNCA § 3.

Elections, general provisions, definitions, see 26 CNCA § 3.

Relinquishment, see 11 CNCA § 34.

Library References

Indians <KEY>222, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 151 to 180.

§ 14. Documentation

A. Tribal citizenship applications must be completed and submitted with required documentation.

1. Acceptable forms of documentation for establishing relationship are:

a. Birth certificates. The document must be a state-certified, full image/photocopy of the original birth record showing parentage and containing the state seal, state registrar's signature, and the state file number. In those states where state law prohibits the release of full photocopies without a court order, computer generated or transcribed records are acceptable; however, these must be verified by a sworn statement or affidavit from the Indian parent. Individuals born outside the United States must obtain a certified copy of the official State Department record showing parentage. In cases where the State Department record is not available, then the

foreign agency responsible for recording vital records must be contacted for a certified copy of the birth record. The certified foreign record must be submitted with the State Department notice of no record on file and a certified translation if needed.

b. Delayed certificates of birth. This document must be state-certified, full image/photocopy showing parentage and containing the state seal, state registrar's signature, and the state file number. State regulations cover the requirements for issuing these; however, for this purpose they are not fully acceptable by themselves and must be verified by at least one supporting document.

c. Certificate of death. This record must be state-certified, full image photocopy of the original record showing parentage and containing the state seal, state registrar's signature, and state file number. Death certificates must be verified by at least one of the supporting documents for verification that must help define the relationships as claimed.

d. Certificate of Degree of Indian Blood (CDIB). This record is the formal certification document issued by the Bureau of Indian Affairs.

2. Acceptable supporting documents must be original or certified copies and are listed as follows:

a. County and district court records

b. Hospital birth certificates

c. Birth certificates issued by the Bureau of Census

d. U.S. federal census records

e. Per capita payment records

f. Enrollment census cards

g. Social Security numident or extract

h. Affidavits. Affidavits are written declarations made under oath before a notary public, must be submitted in original form and are used for the following:

(1) For identification. Many people use more than one name. An affidavit may be used to certify that one person goes by two names or that two or more names actually refer to the same person.

(2) To clarify discrepancies in names for identification purposes. If identification is not questioned, minor variations in spelling, etc., may not require further proof.

(3) To help establish relationship.

(4) To establish paternity of children born out of wedlock. An acknowledgment of paternity must be signed by the natural father and presented to the Bureau of Vital Statistics and his name must be added to the birth record.

i. Other documents. Other documents that define relationship may be considered.

3. Adoption documentation:

- a. Adoption decree signed by the judge of the county where adoption proceedings occurred.
- b. Replacement birth certificate showing new name and name(s) of the adoptive parent(s).
- c. In some cases, the name(s) of the natural parent(s) will not appear on the adoption decree; therefore, other pertinent records will be required for verification of the Indian parent(s). These records may include the original birth certificate established at birth, hospital birth certificate containing the name(s) of the natural parent(s), or other legal documents at the discretion of the Registrar.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Citizenship, general provisions, definitions, see 11 CNCA § 3.

Elections, general provisions, definitions, see 26 CNCA § 3.

Relinquishment, see 11 CNCA § 34.

United States Code

Bureau of Indian Affairs, see 25 U.S.C. § 1 et seq.

Library References

Indians <KEY>222, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 151 to 180.

CHAPTER 3

APPEAL FROM ADVERSE ENROLLMENT ACTION

§ 21. Who may appeal

A person who is the subject of an adverse enrollment action may file or have filed on his or her behalf an appeal.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

Library References

Indians <KEY>434.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 22. Appeals generally

A. The requirements in this part are to provide procedures for the filing and processing of appeals from adverse enrollment actions by the Registrar.

B. Appeals from actions taken by the Registrar must be in writing and must be filed pursuant to 11 CNCA § 23.

C. The decision of the Supreme Court shall be final.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

Library References

Indians <KEY>430.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 23. Appeal procedure

A. An appeal must be in writing and must be filed with the Registrar designated in the notification of an adverse enrollment action.

B. A sponsor may file an appeal on behalf of another person who is subject to an adverse enrollment action.

C. An appeal filed by mail or filed by personal delivery must be post-marked and received in the office of the Registrar by close of business within thirty (30) days of the notification of an adverse enrollment action, unless the appeal is mailed from outside the United States, in which case the appeal must be postmarked and received

by the close of business within sixty (60) days of the notification of an adverse enrollment action.

D. The appellant or sponsor shall furnish the appellant's mailing address in the appeal. Thereafter, the appellant or sponsor shall promptly notify the Registrar with whom the appeal was filed of any change of address; otherwise, the address furnished in the appeal shall be the address of record.

E. An appellant or sponsor may request additional time to submit supporting evidence. A ninety- (90) day period for such submission may be granted by the Registrar with whom the appeal is filed. However, no additional time will be granted for the filing of the appeal.

F. In all cases where an appellant is represented by a sponsor, the sponsor shall be recognized as fully controlling the appeal on behalf of the appellant. Service of any document relating to the appeal shall be on the sponsor and shall be considered to be service on the appellant. Where an appellant is represented by more than one sponsor, service upon one of the sponsors shall be sufficient.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

Library References

Indians <KEY>430.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 24. Computation of the appeal period

A. A notification of an adverse enrollment action will be mailed to the address of record or the last available address and will be considered to have been made and computation of the appeal period shall begin on:

1. The date of delivery indicated on the return receipt when notice of the adverse enrollment action has been sent by certified mail, return receipt requested; or
2. Ten (10) days after the date of the decision letter to the individual when the notice of the adverse enrollment action has not been sent by certified mail, return receipt requested, and the letter has not been returned by the post office; or
3. The date the letter is returned by the post office as undeliverable whether the notice of the adverse enrollment action has been sent by certified mail, return receipt requested, or by regular mail.

B. In computing the thirty (30) or sixty (60) day appeal period, the count begins with the day following the notification of an adverse enrollment action and continues for thirty (30) or sixty (60) calendar days. If the

thirtieth (30th) or sixtieth (60th) day falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the appeal period will end on the first working day thereafter.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

Library References

Indians <KEY>436.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 25. Burden of proof

The burden of proof is on the appellant or sponsor. The appeal should include any supporting evidence not previously furnished and may include a copy or reference to any Bureau or tribal records having a direct bearing on the action.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

§ 26. Action by the Registrar

A. When an appeal is from an adverse enrollment action taken by the Registrar, the Registrar shall acknowledge in writing receipt of the appeal and shall forward the appeal to the District Court of Cherokee Nation together with any relevant information or records and his or her recommendations on the appeal.

B. The Registrar may sustain an appeal, provided the reason for rejection has been overcome with presentation of new evidence.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

§ 27. Action by the District Court of Cherokee Nation-Standard of review

A. When an appeal is from an adverse enrollment action taken by the Registrar, the District Court of Cherokee Nation will consider the record as presented together with such additional information as may be considered pertinent. The standard of review by the District Court will be de novo. Any additional information relied upon shall be specifically identified in the decision. The appellant may request a hearing, the granting of which shall be discretionary with the Court. The District Court shall make a decision on the appeal which shall be final for the Nation, unless appealed to the Supreme Court, and which shall so state in the decision. The appellant or sponsor will be notified in writing of the decision, provided that the District Court may waive his or her authority to make a final decision and forward the appeal to the Supreme Court of Cherokee Nation. The District Court shall provide the appellant information and instructions pursuant to Title 20, Courts, for filing a petition before the Supreme Court.

B. When an appeal is from an adverse enrollment action taken by the District Court of Cherokee Nation, the District Court shall acknowledge in writing receipt of the appeal and shall forward the appeal and petition to the Supreme Court for final action together with any relevant information or records, the recommendations of the Registrar, when applicable, and the ruling of the District Court of Cherokee Nation.

C. The Supreme Court shall make a decision on the appeal, which shall be final for Cherokee Nation and which shall so state in the decision. The appellant or sponsor will be notified in writing of the decision.

History

Source. LA 6-92, eff. September 12, 1992.

Cross References

Temporary automatic citizenship of newborn children, see 11 CNCA § 11A.

Library References

Indians <KEY>440.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

CHAPTER 4

TRIBAL CITIZENSHIP

§ 31. Tribal citizenship cards

A. The tribal citizenship card shall be blue in color and contain the following information:

1. Name. The name which was approved and entered into the Cherokee Registry. This name would be the name

that appears on the individual's birth record. For women who are married, their current married name is also included.

2. Cherokee Registry number. This number is a seven- (7) digit number preceded by the capital letter, "C."

3. Date of birth of the individual.

4. Current address.

5. Signature of the Tribal Registrar.

6. Signature of the Principal Chief.

7. Approval date.

8. The phrase, "This card shows the above named person to be a certified citizen of Cherokee Nation."

9. The legal signature or mark of the tribal citizen.

B. The front of the card shall also have the official name of the tribe in English and in Cherokee: Cherokee Nation. The reverse side of the card shall contain the following statement: "The responsibility of the tribal citizen is to notify the Cherokee Registration Committee of any citizenship change such as a name or address, as soon as possible. Please refer to: Cherokee Nation, Cherokee Registration Department, P.O. Box 948, Tahlequah, OK 74465."

C. The tribal citizenship card shall not be valid without the proper signatures of the Tribal Registrar and the Principal Chief of Cherokee Nation.

D. The tribal citizenship card shall not be valid without the indentation of the Seal of Cherokee Nation.

E. The tribal citizenship card represents a permanent citizenship file maintained in the office of the Registrar. These cards are the property of Cherokee Nation and may be subject to recall.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 20-05, eff. May 19, 2005.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 32. Maintenance of records

A. The Registrar shall keep and maintain the original applications, copies of required documents, and supporting documentation.

B. These records shall be subject to a records retention program as determined by the Registrar and in compliance with Cherokee Nation Code Annotated, Title 67, Records.

C. The Registrar shall develop and maintain a tribal citizenship database.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 20-05, eff. May 19, 2005.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 33. Release of tribal citizenship information

A. All requests for copies of, or information contained in, records relating to tribal citizenship shall be made in writing and on a form prepared for that purpose by the Registrar.

B. The Registrar is hereby authorized and directed to prepare one or more forms to be used for all requests for the release of copies of tribal citizenship records or information.

C. Only a citizen of Cherokee Nation or the sponsor of a citizen may request copies of tribal citizenship records or information. Upon a request for such records or information by a citizen or a sponsor, the Registrar shall issue to the citizen or sponsor an authorization form. Provided, however, prior to issuing the form the Registrar shall enter thereon the name of the citizen, the citizen's Registry number, the sponsor's name (if any), and the date of issuance of the form. No authorization form issued pursuant to this section may be used to obtain information or records relating to any citizen other than the citizen whose name and Registry number is entered on the form by the Registrar.

D. Whenever authority to release information or records cannot be obtained from the tribal citizen or sponsor, the Principal Chief or the Principal Chief's designee may authorize the release of such records or information to any person if the Principal Chief or the designee determines that the release of same would be appropriate under the circumstances of the request.

E. Nothing in this section shall prevent the Registrar from releasing copies of records or information pursuant to a bona fide request from a law enforcement official.

F. Listings, statistics, and labels from the tribal citizenship database must be approved by the Principal Chief or

designee. The receiving of such requests are routed through the Registrar, who obtains the Chief's approval, and coordinates with other departments to facilitate the request.

G. The status of a person as an enrolled citizen of Cherokee Nation is hereby deemed to be public information. In addition to any other tribal citizenship information that the Registrar is now or may hereafter be authorized to release or otherwise make public under the laws of the Cherokee Nation, the Registrar is authorized to disclose to any person, upon request, the following tribal citizen information:

1. Whether or not a person is currently enrolled as a citizen of Cherokee Nation, and, if so, the date on which the person became enrolled as a tribal citizen;
2. Whether or not a person has relinquished his or her tribal citizenship one or more times, and, if so, the date or dates on which the relinquishment of his or her tribal citizenship became effective under 11 CNCA § 34; and
3. Whether or not a person, having relinquished his or her tribal citizenship one or more times, has re-enrolled as a tribal citizen, and, if so, the date or dates upon which such person re-enrolled as a tribal citizen.

H. The Registrar shall maintain and keep current a list of the names of all persons who have relinquished their tribal citizenships, together with their former enrollment numbers and the effective dates of relinquishments of tribal citizenship. If any person appearing on the list re-enrolls pursuant to the Tribal Citizenship Act, the person's name shall remain on the relinquishment list but notation shall be made thereon of the re-enrollment and each of the date or dates on which such person re-enrolled as a citizen.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 2-93, eff. August 11, 1993.

Amended. LA 16-02, eff. May 21, 2002.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Citizenship, definitions, see 11 CNCA § 3.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 34. Relinquishment

A. Any citizen or sponsor of a citizen of Cherokee Nation may request a tribal citizenship relinquishment form,

which shall be furnished directly to the citizen or sponsor by the Registrar. Provided, however, if the person whose citizenship is to be relinquished is a minor child, the sponsor, in addition to the requirements of 11 CNCA § 3(O), must also be that minor child's biological parent or adoptive parent. A sponsor who is not a minor child's biological parent or adoptive parent shall have no authority to act on such minor child's behalf in the relinquishment of the minor's tribal citizenship. The request for a tribal citizenship relinquishment form shall be made in person or in a writing signed by the citizen or the citizen's sponsor and delivered to the Registrar.

B. The Office of the Attorney General of Cherokee Nation is hereby authorized to prepare the tribal citizenship relinquishment form and any other necessary forms, which shall be consistent with the provisions of this section, to be used in connection with the relinquishment of tribal citizenship.

C. Upon receipt of a request pursuant to subsection (A) of this section, the Registrar shall issue to the citizen or sponsor a tribal citizenship relinquishment form. Provided, however, prior to issuing the form the Registrar shall enter thereon the name of the citizen, the citizen's registry number, the sponsor's name (if any) and the date of issuance of the form. No tribal citizenship relinquishment form may be used to relinquish the citizenship of any person other than that of the citizen whose name and registry number is entered on the relinquishment form by the Registrar.

D. The tribal citizen or sponsor shall complete and sign the tribal citizenship relinquishment form before a notary public, and file the notarized form with the Clerk of the District Court of Cherokee Nation, who shall open a civil case styled "In re the relinquishment of citizenship of ____, a Tribal Citizen," without charging a filing fee, and shall assign the case a number. The relinquishment case so opened shall be set for an initial hearing on a date not more than thirty (30) days after the date of filing of the notarized form. The court clerk shall cause notice of the initial hearing to be delivered to the citizen at the time of filing or subsequently by first-class mail. Notice of the hearing shall also be mailed to the Cherokee Nation Department of Justice.

E. At the initial hearing, the tribal citizen or sponsor shall be placed under oath, and the Court or the Nation's attorney shall inquire of the citizen or sponsor who is relinquishing citizenship:

1. in any case where the tribal citizen whose citizenship is being relinquished is a minor, whether the sponsor is the biological parent or adoptive parent of the minor citizen and is otherwise qualified to act as a sponsor under 11 CNCA § 3(O); whether the minor citizen is currently the subject of a deprived child, juvenile delinquency, adoption or other proceeding involving the custody of the minor; and whether any person with parental or custodial rights to the child disputes the relinquishment or who, if unaware of the relinquishment proceeding, would likely dispute the relinquishment if he or she were aware of same;

2. whether the tribal citizen or sponsor is aware that by relinquishing tribal citizenship, all benefits and privileges to which the citizen is entitled as a consequence of being a citizen will be forfeited upon the effective date of relinquishment of citizenship; and

3. if the person whose citizenship is being relinquished is eighteen (18) years of age or older or will be of such age by the time the relinquishment form will be submitted to the Registrar pursuant to subsection (A) of this section, whether the tribal citizen or sponsor is aware that said person will not be eligible to re-enroll as a tribal citizen for a period of five (5) years following the effective date of the relinquishment.

F. At the conclusion of the initial hearing, the Court shall issue a written order authorizing the citizen or sponsor to submit the tribal citizen relinquishment form to the Registrar unless, based on the citizen's or sponsor's

testimony, the Court finds:

1. in any case where the person whose citizenship is to be relinquished is a minor, that the person acting as a sponsor is not the child's biological parent or adoptive parent or is not qualified to act as a sponsor under the provisions of 11 CNCA § 3(O); that the minor citizen is the subject of a deprived child, juvenile delinquency, adoption or other custodial proceeding pending in any court; or that another person with parental or custodial rights with regard to the minor citizen disputes the relinquishment or, if such other person is unaware of the relinquishment request, he or she would likely dispute the relinquishment if he or she were aware of same; or

2. that the citizen or sponsor indicates that he or she had been unaware of the consequences of relinquishment and requests of the Court additional time in order to reconsider the decision to relinquish, in which event the Court shall reschedule the hearing for a later date to determine whether the citizen or sponsor wishes to proceed with relinquishment. If at the rescheduled hearing the citizen or sponsor thereafter indicates that he or she no longer wants to relinquish citizenship, or fails to appear at the rescheduled hearing without first requesting a continuance, the Court shall dismiss the action without prejudice. Otherwise, the Court shall issue an order authorizing submission of the relinquishment form to the Registrar in accordance with this section.

G. If at the conclusion of the initial hearing the Court finds that the person whose citizenship is to be relinquished is a minor child and that the person seeking the relinquishment of the minor child's citizenship is not the child's biological parent or adoptive parent or is not otherwise qualified to act as the child's sponsor, the Court shall issue an order dismissing the case without prejudice. If the Court finds that the person is qualified to act as the minor child's sponsor but that the minor is the subject of a deprived child, juvenile delinquency, adoption or other custodial proceeding, or that another person has parental or custodial rights with regard to the child and disputes or would likely dispute the relinquishment, the Court shall schedule another hearing no more than thirty (30) days after the initial hearing and shall require that notice of same be given to all persons known to the Court to have parental or custodial rights with regard to the minor citizen. All such persons, including the Nation through its attorneys, may appear at the subsequent hearing and present evidence and testimony of witnesses on the issue of whether or not relinquishment of tribal citizenship would be in the best interest of the minor citizen. Within fifteen (15) days after the conclusion of the subsequent hearing the Court shall issue its order and decision on whether relinquishment would be in the best interests of the minor citizen. The party seeking to have the child's citizenship relinquished shall have the burden of proving such by a preponderance of the evidence.

H. All Cherokee Nation District Court hearings required under this section involving minor citizens, and the Court files associated therewith, shall be confidential and closed to the public as in other juvenile cases; provided, copies of any court order authorizing or denying relinquishment shall be made available to the Registrar for filing in the minor child's citizenship records in accordance with this section but shall not otherwise be subject to public disclosure under this or any other law of Cherokee Nation. The Registrar shall not reproduce, release or disclose the contents of any such order to any person except as expressly authorized by order of Cherokee Nation District Court or Supreme Court.

I. If after any hearing authorized by this section the Court, having determined that the relinquishment process should proceed, issues an order allowing the citizen or sponsor to submit the tribal citizenship relinquishment form to the Registrar, the citizen or sponsor must, within sixty (60) days following the issuance of the order, deliver certified copies of the order and the notarized relinquishment form to the Registrar, which copies shall be made available to the citizen or sponsor by the court clerk without charge. Upon timely receipt of the certified copies of the Court's order and the relinquishment form, the Registrar shall stamp both with the date on which they were received by the Registrar and place them in the tribal citizen's file. The Registrar shall not

accept the relinquishment form without the certified copy of the Court's order authorizing relinquishment to proceed. The relinquishment of the person's tribal citizenship shall become effective sixty (60) days after the date on which the certified copies of the Court's order and tribal citizenship relinquishment form were delivered to the Registrar in accordance with this subsection, unless prior to the expiration of said sixty- (60) day period the Registrar receives a written request from the citizen or sponsor that the tribal citizenship relinquishment form be revoked or withdrawn. If a written request by the tribal citizen or sponsor to revoke or withdraw his or her tribal citizenship relinquishment form is delivered to the Registrar prior to the expiration of the sixty- (60) day period, the tribal citizenship relinquishment form shall be deemed withdrawn and the person's status as a tribal citizen shall continue as if the relinquishment form had never been received by the Registrar.

J. Except as provided in subsections (K) and (M) of this section, any person who has relinquished his or her tribal citizenship may re-enroll at any time as a tribal citizen pursuant to 11 CNCA §§ 11, 12, 13 and 14.

K. Any person who relinquishes his or her own tribal citizenship in accordance with the provisions of this section shall be ineligible to re-enroll as a tribal citizen for a period of five (5) years following the effective date of his or her relinquishment of tribal citizenship if, but only if:

1. the certified copies of the notarized tribal citizenship relinquishment form and the Court's order authorizing relinquishment to proceed were received by the Registrar on or after the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, LA 16-02; and

2. the tribal citizen whose citizenship was relinquished was eighteen (18) years of age or older on the date on which the certified copies of said relinquishment form and order were received by the Registrar.

Upon the expiration of said five- (5) year period following the effective date of his or her relinquishment, such person shall be eligible to re-enroll as a citizen in accordance with the provisions of this Title; provided, however, no person subject to the five- (5) year ineligibility period of this subsection shall be eligible to re-enroll as a citizen if, at any time after the effective date of his or her relinquishment, the person was convicted of a felony or of any crime involving moral turpitude under the laws of any federally-recognized Indian tribe, state or the United States; and provided further that in addition to all other requirements for enrollment under this Title, any person subject to the five- (5) year ineligibility period of this subsection who thereafter seeks to re-enroll as a tribal citizen must also execute an affidavit affirming under oath that at no time subsequent to the effective date of his or her relinquishment had he or she been convicted of any such felony or crime of moral turpitude. Said affidavit must be presented to the Registrar together with the application to re-enroll.

L. The provisions of subsection (K) of this section shall not apply to any person who was under the age of eighteen (18) years of age at the time his or her tribal citizenship relinquishment form was received by the Registrar or whose citizenship was relinquished through a sponsor, or to any person, regardless of age, whose tribal citizenship relinquishment form or other document requesting or declaring his or her relinquishment of tribal citizenship was received by the Registrar prior to the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, LA 16-02.

M. Any person who relinquished his or her citizenship but, as of the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002, L.A. 16-02, had not re-enrolled as a citizen, may apply for re-enrollment by delivering to the Registrar a completed application to re-enroll no later than two hundred seventy (270) days following the effective date of said Act. Any such person who fails to deliver to the Registrar a completed application to re-enroll prior to the expiration of said two hundred seventy- (270) day period following the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of

2002 shall be ineligible to re-enroll as a citizen for the remainder of the five- (5) year period commencing on the effective date of said act. Provided, however, the re-enrollment ineligibility period of this subsection shall not apply to any person who was at the time of his or her relinquishment less than eighteen (18) years of age or whose relinquishment was procured through a sponsor. For the purposes of this subsection, the term **"completed application"** means an application to re-enroll as a citizen that substantially complies with the provisions of 11 CNCA §§ 11, 12, 13 and 14 and is submitted to the Registrar simultaneously with all documentation required by 11 CNCA § 14. No later than thirty (30) days after the effective date of LA 16-02, the Registrar shall cause notice of the provisions of this subsection (M) to be sent by first-class mail to the last known address of all persons who are subject to the re-enrollment ineligibility period of this subsection. The Registrar shall also cause notice of this subsection to be published in the next issue of the *Cherokee Phoenix* and *Indian Advocate* published after the effective date of said LA 16-02.

N. Commencing on the effective date of the Tribal Citizenship Relinquishment and Technical Amendments Act of 2002 (LA 16-02), all tribal citizenship relinquishment forms shall include the following language above the signature line:

NOTICE: THE RELINQUISHMENT OF YOUR TRIBAL CITIZENSHIP HAS SERIOUS CONSEQUENCES

I, THE UNDERSIGNED, UNDERSTAND THAT ANY PERSON 18 YEARS OF AGE OR OLDER WHO RELINQUISHES HIS OR HER TRIBAL CITIZENSHIP DOES THEREBY ALSO WAIVE THE RIGHT TO RE-ENROLL AS A CITIZEN OF CHEROKEE NATION FOR A PERIOD OF FIVE YEARS FOLLOWING THE EFFECTIVE DATE OF THE CITIZENSHIP RELINQUISHMENT.

I UNDERSTAND THAT BY RELINQUISHING MY TRIBAL CITIZENSHIP I WILL LOSE ALL BENEFITS THAT I MAY BE ENTITLED TO BY VIRTUE OF MY STATUS AS A CITIZEN OF CHEROKEE NATION.

I UNDERSTAND THAT THIS RELINQUISHMENT OF TRIBAL CITIZENSHIP WILL BECOME EFFECTIVE 60 DAYS AFTER THE DATE ON WHICH THIS RELINQUISHMENT FORM IS RECEIVED BY THE REGISTRAR UNLESS, BEFORE THE END OF THAT 60-DAY PERIOD, I DELIVER TO THE REGISTRAR A WRITTEN REQUEST TO REVOKE OR WITHDRAW THIS RELINQUISHMENT FORM.

History

Source. LA 6-92, eff. September 12, 1992.

Amended. LA 2-93, eff. August 11, 1993.

Amended. LA 16-02, eff. May 21, 2002.

Amended. LA 20-05, eff. May 19, 2005.

Cross References

Citizenship, definitions, see 11 CNCA § 3.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.

§ 35. Recognition of Delaware Tribe of Cherokee Nation-Rights and duties of Delaware Tribe and Cherokee Nation and citizens thereof-Proposal of and conduct of referendum upon governing document for Delaware Tribe-Election of tribal officers

A. Cherokee Nation hereby recognizes that since 1867 the Delaware Tribe of Indians has maintained a separate, distinct identity within Cherokee Nation with its citizens having full rights of Cherokee citizenship.

B. Cherokee Nation does recognize the Delaware citizens to be citizens of the separate, domesticated Delaware Tribe with all inherent rights retained by the Delaware Tribe not specifically restricted by the Congress of the United States.

C. Cherokee Nation shall assist, as requested by Delaware Tribal resolution, to purchase and have placed in trust, land on which to develop income generating economic business and industry. No monies shall be committed for this purpose from Cherokee Nation except as shall be authorized and appropriated by Cherokee Nation. Revenues derived from land so placed in trust or businesses established are to be used for the exclusive benefit of the Delaware Tribal Council by such resolutions as may be appropriate.

D. Cherokee Nation will permit independent operation of the Delaware Tribe, its elected officials, citizens and businesses, except upon request by resolution from Cherokee Nation.

E. The Delaware Tribe will conduct its business in a manner to permit independent operation of Cherokee Nation, its elected officials, citizens and businesses, except upon request by resolution from Cherokee Nation.

F. Delaware Tribal citizens that are on or descendants from the Dawes Roll, June 21, 1906 (34 Stat. 325) shall remain full citizens of Cherokee Nation pursuant to the Constitution of Cherokee Nation; provided, that no elected officer of the Delaware Tribe of Indians shall seek or hold office within the Cherokee Nation tribal government, nor shall an elected official of the Cherokee Nation tribal government seek or hold office within the Delaware Tribe of Cherokee Nation.

G. Cherokee Nation will assist the Delaware Tribe through Cherokee Nation's recognized government-to-government status with the United States to protect legally and governmentally the Delaware Tribe's citizens, property, industries and businesses. No appropriations from Cherokee Nation shall be used for such protection. Funds available from the United States government may be requested by the Delaware Tribe for such purposes.

H. The Delaware Tribe shall not attempt efforts that would lead to a separation of the citizens or tribal government from Cherokee Nation nor shall it seek federal funding for programs separate from Cherokee Nation. Cherokee Nation shall remain the only tribal organization to administer federal programs, grants-in-aid or other special funding that may be available from time to time from the federal government, except, as provided in subsection (G) of this section; provided that all benefits of federal, state or local funds that might become available to Cherokee Nation shall be available to citizens of the Delaware Tribe on the same basis as all other Cherokee citizens.

I. The Delaware Tribe is prohibited from adopting any governing document or passing any tribal laws, ordinances or resolutions that are in contravention to or inconsistent with the Constitution and laws of Cherokee Nation. Any disputes regarding this provision or other laws affecting the relationship of the Delaware Tribe and Cherokee Nation shall be resolved by the Cherokee Nation Supreme Court after the filing of an appropriate action by one of the parties.

J. Cherokee Nation hereby authorizes and requests the Delaware Tribe of Cherokee Nation to propose and present a governing document, properly titled, to the Delaware citizens for their adoption or rejection. The authorized voters, for purposes of this election, shall be those Delaware citizens whose names are currently on file with the Bureau of Indian Affairs as being eligible to participate in per capita payments of the Delaware Tribe and who have attained the age of eighteen (18) years. Said referendum shall be supervised by the Bureau of Indian Affairs.

K. Upon approval of the Delaware citizens of a governing document, an election for tribal officers shall be held and a referendum regarding use and/or distribution of judgment funds belonging to the Delaware Tribe shall be held.

L. The Principal Chief of Cherokee Nation shall appoint two (2) people and they shall select a third person of their choosing to meet with appropriate people to see that this section is executed.

History

Source. LA 16-85, eff. October 12, 1985.

United States Code

Bureau of Indian Affairs, see 25 U.S.C. § 1 et seq.

Library References

Indians <KEY>222.

Westlaw Topic No. 209.

C.J.S. Indians §§ 32 to 35, 59, 62, 67, 180.