



Legislation Text

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An Act

ACT RELATING TO
Legislative Act 6- 92
THE PROCESS OF ENROLLING AS A MEMBER OF THE CHEROKEE NATION
BE IT ENACTED BY THE CHEROKEE NATION

Section 1.

Title: The Cherokee Nation Membership Act

Section 2. Purpose

The purpose of this code is to establish the policies and procedures governing the issuance of tribal membership.

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Section 3. Legislative History

The Cherokee Nation Constitution provides for the membership requirements under Article III. This code shall supersede the guidelines approved by Tribal Council Resolution 121-88 adopted March 12, 1988.

Section 4. Definitions

- (a) Adopted Person means a person whose biological parents' parental rights have been given to others to exercise by court order.
- (b) Applicant means a person submitting an application for enrollment in the Cherokee Nation.
- (c) Base Roll. means a specific list of individuals used for determining tribal membership. 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 membership purposes are (1) Cherokees by Blood, (2) Cherokee Minors by Blood, and (3) Delaware Cherokees.
- (d) Certificate of Degree of Indian Blood (CDIB) is 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/membership document.
- (e) Cherokee Register means the current membership roll of the Nation and is maintained by the Registrar.
- (f) 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.
- (g) Enrollment means the process for applying to be formally recognized or registered as a member of the Cherokee Nation.
- (h) Nation means the Cherokee Nation.
- (i) Necessary Evidence means the documents which clearly establish relationships from one generation to another and that the person does possess Cherokee blood. These documents must be State certified copies of the original birth and or death records issued by state Vital Statistics Offices, Court Ordered Determinations,
- (3) Original Enrollee means an individual who is listed on the Final Rolls.
- (k) registrar means the person who has the immediate administrative jurisdiction over the affairs of registration for enrollment/membership.
- (l) Registration Committee means the Registrar and two assistants.
- (m) Sponsor means a person applying for membership who is the legal representative or legal parent or guardian of the person who is the applicant.
- (n) Tribal Membership is the official certification document stating a person is recognized as a tribal member of the Cherokee Nation.

Section 5. 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.

Section 6. Membership Requirements

- (a) Tribal Membership is derived only through proof of Cherokee blood based on the Final Rolls.
- (b) The Registrar will issue Tribal Membership 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.

Section 7. Procedures

- (a) Applications for Tribal Membership 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 Membership 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 member 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 shall be received by the addressee only and a return receipt requested. The denial letter will explain fully the reason(s) for rejecting the application and the right of appeal of the applicant.

Section 8. Documentation

- (a) Tribal Membership applications must be completed and submitted with required documentation.
- (1) Acceptable forms of documentation for establishing relationship are:
 - (0) 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 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.

(ii) 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.

(iii) 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 which must help define the relationships as claimed.

(iv) 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:

(i) County and District Court Records

(ii) Hospital Birth Certificates

(iii) Birth certificates issued by the Bureau of Census

(iv) U.S. Federal Census records

(v) Per Capita Payment records

(vi) Enrollment Census Cards

(vii) Social Security Number or Extract

(viii) Affidavits. Affidavits are written declarations made under

oath before a notary public, must be submitted in original form and are used for the following:

(I) 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.

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

(III) To help establish relationship.

(IV) 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.

(ix) Other documents. Other documents which define relationship may be considered.

(3) Adoption documentation:

(i) Adoption decree signed by the Judge of the county where adoption proceedings occurred is required.

(ii) Replacement birth certificate showing new name and name(s) of

(iii) In some cases, the name(s) of the natural parent(e) will not appear on the adoption decrees 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.

Section 9. Who may appeal

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

Section 10. Appeals

(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 Section 11.

(c) The decision of the Judicial Appeal Tribunal shall be final. Section 11. An Appeal

(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 postmarked and received in the office of the Registrar by close of business within 30 days of the notification of an adverse enrollment action, except when 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 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 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.

Section 12. Filing an appeal

(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:

(i) The date of delivery indicated on the return receipt when notice of the adverse enrollment action has been sent by certified mail,

(ii) 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

(IAA) 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 30 or 60 day appeal period, the count begins with the day following the notification of an adverse enrollment action and continues for 30 or 60 calendar days. If the 30th or 60th day falls on a Saturday, Sunday, legal holiday, or other non business

day, the appeal period will end on the first working day thereafter.

Section 13. Burden of proof

(a) 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.

Section 14. 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 the Cherokee Nation together with any relevant information or records and his/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.

Section 15. Action by the District Court of the Cherokee Nation; Standard of Review

(a) When an appeal is from an adverse enrollment action taken by the Registrar, the District Court of the 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 Tribunal, 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/her authority to make a final decision and forward the appeal to the Tribunal of the Cherokee Nation. The District Court shall provide the appellant information and instructions pursuant to Title Seven, Courts and Procedure for filing a petition before the Judicial Appeals Tribunal.

(b) When an appeal is from an adverse enrollment action taken by the District Court of the Cherokee Nation, the District Court shall acknowledge in writing receipt of the appeal and shall forward the appeal and petition to the Judicial Appeals Tribunal 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 the Cherokee Nation.

(c) The Judicial Appeals Tribunal shall make a decision on the appeal which shall be final for the Cherokee Nation and which shall so state in the decision. The appellant or sponsor will be notified in writing of the decision.

Section 16. Tribal Membership Cards

" " (a) The Tribal Membership Card shall be blue in color and contain the following information:

(i) 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;

(ii) Cherokee Registry Number. This number is a seven digit number preceded by the capital letter, "C";

(iii) Date of birth of the individual;

(iv) Current address;

(v) Signature of the Tribal Registrar;

(vi) Signature of the Principal Chief;

(vii) Approval date;

(viii) The phrase, "This card shown the above named person to be a certified member of the Cherokee Nation"; and

(ix) The legal signature or mark of the Tribal Member.

(b) The front of the card shall also have the official name of the tribe in English and in Cherokee: The Cherokee Nation. The reverse side of the card shall contain the following statement: "The responsibility of the tribal member is to notify the Cherokee Registration Committee of any Membership 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 Membership card shall not be valid without the proper signatures of the Tribal Registrar and the Principal Chief of the Cherokee Nation.

(d) The Tribal Membership card shall not be valid without the indention of the Seal of the Cherokee Nation.

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

Section 17. 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, Title Twenty, Public Records and Documents.

(c) The Registrar shall develop and maintain a tribal membership database.

Section 18. Release of Tribal Membership Information

(a) The request for checking/requesting the records must be in writing.

(b) An Authorization for Release of Information form must be completed and signed by the person whose record is being requested or signed by the legal representative. This Authorization for Release of Information must specify what record is being requested, by who, and for whom the information is to be released. The "for whom" is

(c) In cases where an authorization cannot be obtained by the tribal member whose record is in question, the Principal Chief or designee has the authorization to approve the release.

(d) Listings, statistics, and labels from the tribal membership 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.

Section 19. Relinquishment

(a) Any member of the Cherokee Nation may apply for relinquishment of tribal membership. The request for tribal membership relinquishment is made in person or in writing to the Registrar.

(b) The tribal member completes the relinquishment form as provided by the Registrar. This form must clearly identify the tribal member and must be notarized.

(c) Upon confirmation that said form is properly executed, the Registrar shall send a letter acknowledging the request for relinquishment of

tribal membership, stating when the request was received and stating that the request has been placed on permanent record as evidence that the requester desires to freely and voluntarily relinquish his/her tribal membership with the Cherokee Nation.

Passed by the Cherokee Nation Tribal Council on the 12TH day of
SEPTEMBER, 1992.

John Ketcher, President Cherokee Nation Council

Approved and signed by the Principal Chief this 12th day of SEPTEMBER, 1992.

Wilma P. Mankiller, Principal Chief Cherokee Nation

Troy Wayne Poteete, Secretary Cherokee Nation Tribal Council

Tommy Thompson, Secretary-Treasurer Cherokee Nation

YEAS AND NAYS AS RECORDED

Don Crittenden	YEA	James Garland Eagle	YEA	
Sam Ed Bush		YEA Harold "Jiggs" Phillips		YEA
Joe Byrd	YEA	Troy Wayne Poteete	YEA	
Mige Glory		YEA Barbara Conness Mitchell	YEA	
Mary Cooksey	YEA	Melvina Shotpouch		ABSENT
Paula Holder	YEA	William Smoke	YEA	
Harold DeMoss	YEA	Maudie McLemore Bazille	YEA	
Greg Pitcher	YEA			