

TITLE XXII
TRIBAL ENROLLMENT

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CHAPTER 1. GENERAL

§22-1-1. General

- (1) Pursuant to the authority vested in the Tribal Council of the Mississippi Band of Choctaw Indians by the Tribe's Revised Constitution and Bylaws, and particularly by Article III, Section 2, thereof, the Tribal Council hereby enacts this Title of the Tribal Code to establish rules and procedures governing membership and enrollment in the membership of the Tribe.
- (2) Any person who applies for membership who otherwise qualifies for membership but who has been enrolled as a member of another Indian Tribe may be enrolled as a member of the Tribe provided that he relinquishes in writing his membership in the other Indian Tribe, and that the relinquishment is approved as may be provided for under the laws and/or regulations of the other Indian Tribe. Any member of the Tribe who subsequently becomes a member of another Indian Tribe and shares in any benefits in land or money as a member of such other Tribe shall be disenrolled from the Tribe; *provided*, however, that any member of the Tribe who subsequently becomes a member of another Tribe but has not shared in any benefits from that Tribe shall be given an opportunity to relinquish the membership in the other Tribe in order to prevent disenrollment from the Mississippi Band of Choctaw Indians.

§22-1-2. Definitions

- (1) *Applicant* means the person seeking to be enrolled;
- (2) *Appellant* means a person who is appealing the Committee's decision to reject his application for Tribal enrollment;
- (3) *Challenger* means a tribal member who submits evidence that would disqualify another member from continued tribal membership with the MBCI;
- (4) *Committee* means the Enrollment Committee established by this Title;
- (5) *Current Roll* means the roll of all living members of the Tribe;
- (6) *DNA* means deoxyribonucleic acid, which is a nucleic acid that carries the genetic information in the cell and is capable of self-replication and synthesis of ribonucleic acid (RNA);
- (7) *DNA Testing* means genetic testing that is used to establish a biological relationship;
- (8) *Enrollment Officer* or *Officer* means the person appointed by the Chief to handle enrollment records. The Chief may, at his discretion, either hire a person or designate a current Tribal employee to perform the duties of the Enrollment Officer;
- (9) *Initial Base Roll* means the roll as compiled as of January 1, 1940;
- (10) *Master Roll* means the roll of all enrolled members of the Tribe, both living and deceased;

- (11) *Sponsor* means the applicant's spouse, parent, recognized guardian, next of kin, descendent, executor or administrator of estate, or any Tribal member who files an application for enrollment or appeal on behalf of another person; and
- (12) *Tribe* means the Mississippi Band of Choctaw Indians (MBCI);

§22-1-3. *Amendments*

This Chapter may be amended by the Tribal Council only after notification to members of the Tribe in a newspaper of general circulation of consideration of the proposed change(s) and only by a two-thirds vote of the members of the Council present and voting.

CHAPTER 2. APPLICATIONS FOR ENROLLMENT

§22-2-1. Enrollment Committee

The Tribal Council hereby delegates to the Enrollment Committee the authority to provide by Committee resolution for recommendations for the enrollment of persons in the Tribe, the rejection of applications for enrollments in the Tribe, relinquishments of enrollment and disenrollment. The Committee shall be composed of five (5) persons nominated by the Chief and confirmed by the Tribal Council, who shall serve four (4) year terms commencing in January of 1996. The Chief shall also maintain on his staff an Enrollment Officer to work with the committee and the Council on questions of enrollment.

§22-2-2. Committee Duties and Powers

The Committee is authorized and directed to make and promulgate all necessary rules and regulations for establishing eligibility for membership and enrollment, to establish basic standards and requirements of proof necessary to determine eligibility and to prescribe forms of application for enrollment, in conformity with this Title.

§22-2-3. Written Application for Enrollment

A separate written application for enrollment on a form approved by the Committee shall be filed with the Committee by or on behalf of each person applying for enrollment as a member of the Tribe. All persons not listed on the census roll of January 1, 1940, who request membership in the Tribe must file an application. There will be no deadline established for filing enrollment applications, except when an enrollment cutoff date has been authorized by the Tribal Council for a Tribal distribution of funds or for other purposes. At a minimum, the application must show the following:

- (1) All names by which the applicant is known;
- (2) The address of the applicant;
- (3) The degree of MBCI blood the applicant purports to have;
- (4) The names and roll numbers of all Mississippi Choctaw ancestors whose names appear on the January 1, 1940, census roll, together with the name of MBCI ancestors in generations between that roll and the applicant;
- (5) The names of the Tribes, roll numbers and degrees of Indian blood of any Tribes other than MBCI;
- (6) Ancestry chart;
- (7) Consent to DNA testing as a precondition to enrollment, as well as after enrollment if the need arises;
- (8) The signatures of the applicant or the applicant's sponsor or sponsors;
- (9) The date of filing of the application;

- (10) certified copy of long form birth certificate;
- (11) copy of Social Security card; and
- (12) if an applicant's biological parent is an enrolled member of the Tribe and is not listed on the applicant's long form birth certificate, a certified copy of a court order establishing paternity or maternity on the basis of DNA Test results.

§22-2-4. *Sponsoring an Application for Another Person*

Applications for enrollment for minors or other persons in need of assistance or for deceased persons, may be completed and filed by the natural parents, adoptive parents, guardian(s), descendants or other sponsor of such person. If both natural parents are alive, except in the case of a legal child adoption for which the record has been sealed, both must sign the application; if only one is alive, that one must sign the application.

§22-2-5. *DNA Testing*

- (1) DNA Testing Required. All living applicants must test with each biological parent listed on the applicant's long form birth certificate who is contributing to the MBCI blood quantum of the applicant, provided that two parents who were assigned the same sex at birth cannot both contribute to an applicant's MBCI blood quantum. DNA Test results shall be sent directly to the Enrollment Officer from a laboratory accredited by the American Association of Blood Banks ("AABB"), or a successor to its functions, or the American National Standards Institute National Accreditation Board ("ANAB"), or a successor to its functions.
- (2) Probability of Relationship. The results of DNA Testing will be accepted so long as the probability of the alleged parental relationship is no less than ninety-nine percent (99%).
- (3) Cost of DNA Testing. The Tribe shall assume the cost of one (1) DNA Test by a laboratory approved by the Enrollment Committee for each applicant and biological parent listed on the applicant's long form birth certificate who is contributing to the MBCI blood quantum of the applicant. The cost of any additional DNA Testing shall be paid by the applicant's parent or legal guardian, who may choose to deduct the DNA Testing costs from tribal per capita distribution payments or tribal employee payroll by executing an assignment of tribal distribution funds or tribal employee payroll deduction form.
- (4) Exception. DNA Testing shall not be required as prescribed by this Section when the applicant submits a certified copy of a court order establishing paternity or maternity which was entered on the basis of DNA Test results.

§22-2-6. *Fraudulent Submissions*

Any false or fraudulent statement, contention, documentation or certification contained in an application or challenge shall be a violation of this section and shall subject the violator to the penalties outlined in §22-5-1 or §22-5-2, or both.

§22-2-7. *Applications to be Numbered and Dated*

The Enrollment Officer shall assign an identifying number and shall record the date of each enrollment application received. An acknowledgement of receipt should be sent to the applicant or sponsor within thirty (30) days

§22-2-8. *Applications for Change in Blood Quantum Calculation*

Persons may also submit applications for changes in blood quantum calculation based upon new or additional information about paternity or maternity. Likewise the Officer or Committee may make changes in blood quantum for any member based upon additional knowledge; provided, however, that any change in blood quantum which would result in a quantum below one-half shall result in a disenrollment action, as described in §22-4-2.

§22-2-9. *Review of Applications*

The Enrollment Officer shall review all applications for enrollment and shall consider the information provided in such applications, together with all other available evidence concerning the applicant's eligibility for membership. If the proof is clear and convincing and all documentation present, the Enrollment Officer shall prepare a resolution for enrollment for committee adoption; in any other case the Enrollment Officer shall request a committee meeting to discuss the actual or apparent shortfalls in the application. Where the Committee considers additional information is needed, it may request such information and may request a person to appear before the Committee for a personal interview. In addition, in order to determine with further specificity the applicant's parentage, the Committee may request an applicant or signing parent to submit to DNA testing or if the applicant or signing parent refuses, may submit a motion to the Tribal Court or the appropriate county court for an order requiring a DNA test.

§22-2-10. *Committee Recommendation*

The person or sponsor filing an application shall have the burden of proof to establish to the satisfaction of the Committee that the applicant meets all requirements for Tribal membership. Should the Committee be satisfied, it shall make a recommendation that the application be approved in the form of a Committee resolution. Should the Committee not be satisfied, after requests for further information or personal interview, if such have occurred, it shall in resolution form, make a rejection.

§22-2-11. *Notices*

- (1) Notice Required. Every person or sponsor filing an application for enrollment shall be served with written notice of recommendation of rejection by the Committee.
- (2) Notice of Rejection. If the Committee rejects an application, the notice shall list the reason(s) for rejection and provide that the rejection may be appealed to the Tribal Council. The notice shall indicate the time within which an appeal may be commenced and the procedure for commencing such appeal. The notice shall also specify that upon discovery and furnishing of additional documentation, a reapplication may be made.
- (3) Approval. If the Committee recommends approval for an application, the application will be considered by the full Tribal Council at its next meeting.

- (4) Notice of Challenge. Any member of the Mississippi Band of Choctaw Indians may challenge the membership of any person on the current roll. The challenge shall be in letterform, addressed to and filed with the Committee. A separate challenge shall be file for each person whose membership is challenged. The member making the challenge must provide the information and/or documentation on which the challenge is based. The Committee shall determine whether or not the information submitted with the challenge is adequate to proceed with disenrollment procedures as outlined in §22-4-2. If the Committee determines that the information is not adequate to proceed, the challenger shall be notified in writing. If the Committee determines that the information is adequate, the member challenged, if a competent adult, or that member's sponsor, if the member is not a competent adult, and the challenger shall be notified pursuant to §22-4-2. The notice shall include a copy of the challenge and of any documentation that accompanied the challenge.
- (5) Manner of Giving Notice. The notices required to be given under this Chapter shall be given promptly after a determination of recommendation or challenge is made and shall be sent by certified mail with postage thereon fully prepaid, with a return receipt requested to the address provided on the application or at such different address as may be subsequently provided by the person or sponsor in writing.

§22-2-12. *Commencing an Appeal*

To commence an appeal, the person or sponsor must clearly express an intent to appeal to the Tribal Council, addressed to the Chief in a written instrument within thirty (30) days after the notice of rejection is sent to the person or sponsor.

§22-2-13. *Tribal Council Hearing*

The Tribal Council shall hold a hearing on the appeal at its next regular meeting or at a special called meeting prior to the next regular meeting if the appeal is included in the call for the meeting. At the hearing, the Council will review the written record. The hearing shall be held in executive session and the Council shall review the facts and make a final decision. The final decision shall be announced at the conclusion of the executive session or no later than thirty (30) days of the meeting. The decision of the Council shall be final.

§22-2-14. *Enrollments by Resolution*

Each enrollment in the Tribe shall be approved by resolution of the Tribal Council. Each such resolution may contain one or more enrollments.

CHAPTER 3. MEMBERSHIP ROLL

§22-3-1. Current Membership Roll

The Current Membership Roll shall contain the names of all enrolled members of the Tribe. For each such person, the roll shall also indicate to the maximum extent possible the person's enrollment number, sex, date of birth, degree of Mississippi Choctaw blood quantum, degree of Indian blood quantum, parents' blood quanta, address, date of enrollment, and the name and roll number of the person's parents. Any notations made upon such roll shall indicate by whom such notations were made, the date and the authority for making such notations.

§22-3-2. Roll to be Kept Current

The Committee shall cause the roll to be kept current and shall semi-annually review the roll for such purposes. The names of all persons who are deceased and all persons who have relinquished their membership in the Tribe in writing and those disenrolled by resolution shall be noted in the roll. The names of all persons whose applications for enrollment have been approved by the Council shall be promptly added to the roll.

§22-3-3. Master Roll

All persons whose names are listed and numbered on the official census roll of the Tribe of January 1, 1940, as corrected at any time prior to the enactment of this Title and approved by the Secretary of the Interior, form the base roll.

§22-3-4. Children Born to Members on the Initial Base Roll

Article III, Section 1, of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians provides that the Tribe's membership shall consist of "all Choctaw Indians of one-half (1/2) or more Choctaw blood residing in Mississippi, January 1, 1940, as shown by the census roll maintained by the Bureau of Indian Affairs at the Choctaw Agency," and "any child of one-half (1/2) or more Choctaw blood born to any enrolled member of the Band after January 1, 1940."

§22-3-5. Adopted Members

Article III, Section 2, of the Revised Constitution and Bylaws of the Mississippi Band of Choctaw Indians provides that the Tribal Council "shall have the power to pass ordinances ... governing...the adoption of new members...." For purposes of this Title, adoption into membership shall be considered the enrollment of persons who qualified for inclusion on the January 1, 1940, census roll, but were omitted from that roll.

§22-3-6. Enrollment Review

Within six (6) months of enactment of this Title, the Committee shall cause to begin an enrollment review of the members of the Mississippi Band of Choctaw Indians. This review will include an examination of documents relevant to qualifications for membership in order to confirm those qualifications. If any required document is absent from a member's enrollment file, the review for that individual will be placed on hold until such time as the documents(s)

is/are provided by the member. Any person whose file is on hold for one year after the completion of the review of all records shall be excluded from any distribution until such time as the required documentation is provided.

§22-3-7. *Maintenance of the Current Membership*

- (1) It shall be the duty of the Enrollment Officer to correct the master membership roll and develop and maintain the current membership roll.
- (2) The Enrollment Officer shall have full and free access to the files of the Bureau of Indian Affairs Choctaw Agency.
- (3) The Enrollment Officer shall make a complete copy of the updated census roll of January 1, 1940, currently on file at the Choctaw Agency. The Officer shall remove from this working copy the names of the persons who do not qualify for membership, including non-Indians married to Tribal members, persons of other Indian Tribes (whose names are preceded by the initials "NE," meaning Not Enrolled) and persons who died prior to the date of the most recent census but whose names are placed on the roll through error.
- (4) Each person whose name was listed on the census of January 1, 1940, the Initial Base Roll, must be accounted for.
- (5) The Officer shall add to the working copy of the initial base roll persons born prior to and living on the date of the census whose names should have been on the list, but through error do not appear. (Persons in this category may be parents of persons listed on the 1940 census or descendants, brothers or sisters of persons on the list.) At this point, corrections should be made in the spelling of names, surnames of illegitimate children, and dates of birth.
- (6) The Officer shall prepare a corrected initial base roll for submission for approval of the Secretary of the Interior and shall list information in columns headed as follows:
 - (a) Roll number;
 - (b) Name;
 - (c) Sex;
 - (d) Date of birth;
 - (e) Degrees of Choctaw and Indian blood;
 - (f) Relationship to base enrollee; and
 - (g) Remarks;
- (7) Upon completion of the basic membership roll and upon its approval by the Secretary of the Interior, a current membership roll shall be maintained by the Enrollment Officer in a Tribal computer system.
- (8) The current roll shall be based upon the corrected base roll and shall be prepared by deleting the names of those who have died, relinquished membership or lost membership for any reason and prior to the date of the current roll. (These latter shall be added on the basis of birth certificates, Choctaw health records or other sources.) In addition, those persons admitted to membership through the application process will also be added.

- (9) A copy of the current roll shall be subject to computer run each July 1 and preserved in the enrollment files and the Tribal Archives. The Enrollment Officer shall also send a copy to the Choctaw Agency and shall, in general, see to the safety and protection of this and other enrollment records.

§22-3-8. *Genealogical Records*

The Enrollment Officer shall also maintain an individual file on each member of the Mississippi Band of Choctaw Indians. Each file folder shall contain the following items:

- (1) Application Form;
- (2) Social Security Number;
- (3) Birth Certificate (long form);
- (4) Correspondence to and from Enrollment Officer;
- (5) Copies of resolutions affecting enrollment;
- (6) All other documentation on the person pertinent to membership; and
- (7) Death certificate.

The birth certificate may be obtained at Tribal expense, in which case the Enrollment Officer may request two certified copies from the appropriate state, one for the file and one for the individual. If copies are ordered for individuals, the cost of the additional copy must be paid by the individual.

§22-3-9. *Access to Records*

The Tribe's current roll may be viewed by any member of the Mississippi Band of Choctaw Indians who comes to the office; however, neither the roll nor any portion thereof may be copied and/or distributed to any person or organization without the prior approval of the Chief. Information in the genealogical files in individual folders of living individuals shall be considered confidential and it shall not be available to anyone except the individual member (or his guardian or someone to whom he has given certified power of attorney), to enrollment staff or to Committee or Council members (but only collectively, in cases of consideration of a resolution for enrollment or disenrollment or in case of an appeal). Individuals wishing to further assure that specific information in their file be kept confidential should submit a signed and notarized affidavit to that effect, which will also be maintained in the file.

§22-3-10. *Preservation and Duplication of Records*

The current roll as updated shall be copied from time to time on a regular basis, in two copies one submitted to the Choctaw Agency and one submitted to the Tribal Archives. The genealogical files shall be microfilmed from time to time on a regular basis, with one microfilmed copy going to the Tribal Archives and one to be preserved elsewhere, presumably in a fireproof location in the Tribal Office or with the microfilm company.

§22-3-11. *Updating Records*

Upon receipt of appropriate documentation, the Enrollment Officer is authorized to update information on the Tribal Roll and in the genealogical records. The following documentation is deemed adequate for such actions to be taken:

- (1) Name Change: Marriage license;
 Divorce decree;
 Court order changing name;
 Amended Certificate of Birth
- (2) Address Change: Written statement signed by member or guardian.
- (3) Death: Death certificate;
 Mortuary records;
 Hospital records; and
 Written, signed statement of relative

Any change for which none of the above documents is available must be approved by the Committee by resolution and a copy of the resolution will be placed in the appropriate folder(s).

§22-3-12. *Computerized Records*

The Enrollment Officer's computerized records may be partially shared with other Tribal programs needing information or statistics. For purposes of this Title, only the name, birth date, enrollment number and blood quantum are considered to be public information and may be shared with the Tribal Health Department's health records component and/or other appropriate agencies. Natural parents' names, in cases of adoption or other names of information, at the request of the individual, may be encoded as "Sealed" in the computer record and will be available only in the physical enrollment or genealogical files.

§22-3-13. *Membership Cards*

Upon approval of the Tribal Council, the Enrollment Office may also develop and maintain a system of membership cards for Tribal members and issue, renew and revoke such cards; and the Committee may promulgate rules and regulations on such membership card system as it may deem fit.

CHAPTER 4. LOSS OF MEMBERSHIP

§22-4-1. Relinquishments

- (1) Any adult member of the Mississippi Band of Choctaw Indians may voluntarily relinquish his membership. The membership of any member of the Mississippi Band of Choctaw Indians who is not at least eighteen (18) years of age may be relinquished by his parents (if both are living, both must sign) or guardians. Such a relinquishment must be in writing and the signature(s) must be notarized.
- (2) Any member wishing to relinquish membership will be encouraged to do so, on a conditional relinquishment form to be prepared by the Committee. In such case, the relinquishment will become effective upon the acceptance of that individual into membership of another Tribe. The member's name will not be removed from the Mississippi Band of Choctaw Indians' Tribal Roll until documentation of the acceptance into the other Tribe's membership is received. In the case of relinquishments on behalf of children under eighteen (18), the parents or guardians must meet in person with the Committee to discuss the proposed relinquishment.
- (3) Any adult member insist upon relinquishment in writing without using the conditional relinquishment form, the Enrollment Office will comply with the member's wishes and will remove the member's name from the Tribal Roll as of the date on which the Tribal Council approves the relinquishment.
- (4) Any member eighteen (18) or over who relinquishes membership in the Mississippi Band of Choctaw Indians, may not reapply for membership in the Tribe and his membership shall be henceforth forfeited. Minors who have relinquished may reapply on or after their eighteenth (18th) birthday but, if admitted or readmitted to membership after their eighteenth (18th) birthday, may only relinquish once after that time.

§22-4-2. Disenrollments

- (1) Who may be disenrolled. A Tribal member shall be disenrolled when it is discovered either by Enrollment Office staff, Enrollment Committee action, or by a challenge submitted by a member of the Tribe pursuant to 22-2-11(4) that he/she is:
 - a) Was erroneously enrolled in that he/she did not meet the constitutional membership criteria at the time of enrollment. This "erroneous enrollment" may have resulted from fraudulent submissions, mistakes in blood degree computations or inadequate research.
 - b) OR is found to be currently enrolled with another Indian tribe and does not relinquish the membership in the other tribe within thirty (30) days of receipt of a certified letter from the Enrollment Officer informing him/her of the necessity to submit the required relinquishment.
 - c) Procedure for Disenrollment. A member identified as subject to disenrollment pursuant to the above sub-section shall be notified by certified mail, return receipt requested, of the pending action. If the disenrollment action was begun by a challenge from a member pursuant to §22-2-11(4), the notice shall include a copy of the challenge and of any documentation that accompanied the challenge.

Included in the notice shall be the date set for a hearing before the Committee to consider the matter. Following the hearing, whether or not the challenged member makes any appearance or response, the Committee shall determine whether or not it is going to recommend to the Council that the member be disenrolled. Such recommendation shall be documented in a Committee resolution. If, following the hearing, the Committee does not recommend disenrollment, the member and the challenger shall be notified of the Committee's action. If, following the hearing, the Committee does recommend disenrollment, the Committee's resolution together with all the pertinent information and files shall be delivered by the Enrollment Officer to the Tribal Council for its action. The Tribal Council shall determine whether or not the member is to be disenrolled based upon the information transmitted to them. The decision of the Tribal Council shall be documented in a Council resolution. The files shall be returned to the Enrollment Office immediately after Council action. The disenrolled member shall be notified of the action taken by certified mail, return receipt requested. Disenrollment action by Tribal Council is final, and no other appeal process is available.

CHAPTER 5. **PENALTIES**

§22-5-1. *Criminal Penalties*

Each violation of any provision of this Title shall be a Class A offense, subject to the provision that the minimum fine upon conviction shall be five hundred dollars (\$500.00).

§22-5-2. *Civil Penalties*

Any person found by the Choctaw Tribal Court to be violating any provisions of this Title or any rule or regulation or written order of the Committee shall be subject to a civil penalty of not more than five thousand dollars (\$5,000) for each violation.