

Minnesota Chippewa Tribe

ENROLLMENT ORDINANCE

I. Authority.

Pursuant to Article II, Membership of the Revised Constitution and Bylaws, the Tribal Executive Committee is responsible for making decisions on applications for enrollment as a member of the Minnesota Chippewa Tribe. As an inherent attribute of that sovereign authority the Tribal Executive Committee finds that it is necessary and appropriate to enact an ordinance governing enrollment.

II. Purpose.

The purpose of this Ordinance is to establish guidelines, rules and an orderly procedure to maintain a current membership roll of the Minnesota Chippewa Tribe. The Tribal Executive Committee recognizes that the process of enrollment is not static but that it evolves as records previously unavailable become known to persons both within and outside of tribal government.

III. Definitions.

A. “Another Tribe” as used in Article II, Section 2 of the Constitution means a tribe on the list of federally-recognized Indian tribes, as published from time to time in the Federal Register, and Canadian tribes.

B. “Applicant” means a living person who has submitted an application for membership in the Minnesota Chippewa Tribe, or on whose behalf such application has been submitted.

C. “Band” means one of the constituent Bands of Minnesota Chippewa Tribe, namely: Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth.

D. “Band governing body” means a Reservation Business Committee, Reservation Tribal Council, or other entity recognized by the Tribal Executive Committee as the lawful governing body of a constituent Band of the Minnesota Chippewa Tribe.

E. “Base Roll” means the annuity roll of April 14, 1941, as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which is also designated as the official Tribal roll for purposes of determining membership in the Minnesota Chippewa Tribe.

F. “Because of an error” as used in Article II, Section 3 of the Constitution means an error, which led to failure to file a timely application, including errors in applications and errors by any Tribal, Band or federal official.

G. “Child born to a member” means the biological child of a person who at the time of the child’s birth was an enrolled member of or eligible for membership and, subsequent to the child’s birth, enrolled in the Minnesota Chippewa Tribe.

H. “Constitution” means the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, as

amended.

I. "Enrollment Office" means the person or entity designated by a Band governing body as having authority and responsibility for processing enrollment applications.

J. "Incompetents" means persons who have been determined by a court of competent jurisdiction to be unable to act on their own behalf.

K. "Minnesota Chippewa Indian Blood" and "Minnesota Chippewa Tribe Indian Blood" mean blood derived from the six (6) Bands comprising the Minnesota Chippewa Tribe: Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth.

L. "Minor" means a person under the age of eighteen (18) years.

M. "Relinquishment" means a personal, voluntary action taken by an applicant or another person legally authorized to act on behalf of the applicant to terminate the applicant's membership with another tribe. A relinquishment on behalf of a minor must be signed by both parents or by the parent with legal custody.

N. "Review Committee" means the committee authorized by this ordinance to hear requests for reconsideration of denials of applications for enrollment.

IV. Eligibility Criteria.

A. Article II of the Constitution provides that the membership of the Minnesota Chippewa Tribe shall consist of the following:

1. Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642) and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe.

2. All children of the Minnesota Chippewa Indian blood born between April 14, 1941, the date of the annuity roll, and July 3, 1961, the date of approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director.

3. All children of at least one quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates or the Tribal Executive Committee within one year after the date of birth of such children.

B. No persons born after July 3, 1961, shall be eligible for enrollment if enrolled as a member of another tribe, or if not an American citizen.

C. Any person of Minnesota Chippewa Indian blood who meets the membership requirements of the Tribe, but who because of an error has not been enrolled, may be admitted to membership in the Minnesota Chippewa Tribe by adoption, if such adoption is approved by the Tribal Executive Committee, and shall have full membership privileges from the date the adoption is approved.

V. Filing an Application.

A. Who must file? All persons not enrolled as members of the Tribe on the effective date of this Ordinance must file an application on the form prescribed by the TEC (Appendix 1). Applications for minors or incompetents must be filed by a parent, guardian or other person legally authorized to act on behalf of the applicant, provided that a Band governing body may by official action adopt a requirement that when none of these persons is a Band member the application must also be signed by a sponsor who is a Band member. A sponsor may be an extended family member or other person designated by the Band governing body.

B. When and where to file an application. Applications may be filed with the Tribal Operations Office of the Tribe or an Enrollment Office. Applications must be filed within one year after the birth of an applicant born after July 3, 1961.

C. What the application must contain. Applications must be completed and must contain sufficient information to determine eligibility for enrollment.

D. What documents must be filed with the application.

1. The application must be accompanied by information establishing that the applicant is a child born to a member of the Minnesota Chippewa Tribe. If the applicant's biological mother is not a tribal member, then the biological father must be a tribal member and paternity can be demonstrated by:

a. the birth certificate (a certified copy); or

b. an affidavit of paternity from a tribal member, except that an affidavit which is limited by its terms to use for enrollment purposes is not acceptable; or

c. results of a DNA or genetic marker test determining the probability that a specific tribal member is the biological father of the applicant to be not less than 97%.

2. If the applicant was not born in the United States, proof of United States citizenship.

3. If the applicant is a member of another tribe, proof of relinquishment of that membership. An applicant may submit a relinquishment that is conditioned upon enrollment in the Minnesota Chippewa Tribe.

4. In the case of "adopted out" applicants, the decree of adoption, original birth certificate, or certification by the Secretary of the Interior under the Indian Child Welfare Act of 1978.

5. In the absence of a birth certificate, other documents may be relied upon to establish any fact necessary to determine eligibility, provided that each fact must be demonstrated by a preponderance of the evidence.

6. A Band governing body may by official action prescribe the circumstances in which paternity must be established by a DNA or genetic marker test as set out in 1(c) above.

VI. Processing an Application.

Initial review of applications shall be done by the Enrollment Office of the Band with which the application is filed. If the application is filed with the Tribal Operations Office of the MCT, it will be referred to the appropriate Enrollment Office for initial review.

- A. At all steps of the process, the burden of proof is on the applicant to demonstrate that each of the eligibility criteria for enrollment in the Minnesota Chippewa Tribe has been met.
- B. The Enrollment Office shall review the application and make a recommendation as provided in the Enrollment Policies and Procedures (Appendix 2).
- C. Upon completion of its review by an Enrollment Office and recommendation by resolution of the Band governing body to approve or deny the application, the Tribal Executive Committee shall consider the application.
- D. Upon the denial of an application by the Tribal Executive Committee the applicant will be given notice of the denial and of the right to request reconsideration of the denial by the Review Committee as provided in Section X of this Ordinance.
- E. In the event the applicant does not file a timely request for reconsideration or if the Review Committee recommends that the denial of the application be sustained, the applicant will be given notice of the denial and of the right to appeal to the Secretary of the Interior as provided in Article II, Section 4 of the Constitution.
- F. Denial of an application shall not preclude a subsequent application if it is based on documentation not available and submitted with a prior application.

VII. Computing Degree of Minnesota Chippewa Tribe Indian Blood.

The following principles shall apply to the computation of blood degree:

- A. Indian blood shown on the Base Roll shall be considered to be Minnesota Chippewa Tribe Indian blood.
- B. The blood degrees shown on the Base Roll shall be used in computing the degree of Minnesota Chippewa Tribe Indian blood for applicants.
- C. Applicants will assume one-half ($\frac{1}{2}$) of the Minnesota Chippewa Tribe Indian blood of both the applicant's father and mother, even if one is not enrolled in the Minnesota Chippewa Tribe. The blood degree of a non-enrolled parent must be supported by the same level of documentation as is required of the enrolled parent.
- D. When determining the blood degree of persons with the same birth parents, all full siblings will be considered as having the same degree of Minnesota Chippewa Tribe Indian blood and that degree shall be the highest degree of any of the siblings on the Base Roll, provided, however, that this method of computation shall not apply in cases where the TEC determines that the degree of Minnesota Chippewa Tribe Indian blood of the siblings on the Base Roll was the result of fraud or administrative error.

VIII. Changing Blood Degrees.

The degree of Minnesota Chippewa Tribe Indian Blood of a member may be changed only upon completion of one of these procedures:

- A. If the change does not involve a change on the Base Roll:

1. A member must make a written request to the appropriate Enrollment Office, must indicate the basis for the proposed change, and must provide supporting documentation.

2. The Enrollment Office will research the matter and provide its results to Tribal Operations Office of the Minnesota Chippewa Tribe.

3. The recommendation of the Enrollment Office and Tribal Operations Office shall be presented to TEC and any change must be authorized by resolution. In the event a change is authorized, the Enrollment Office and the Tribal Operations Office shall make the change for all persons affected by the change.

B. If the change does involve a change in the Base Roll:

1. A base enrollee or a descendent of a base enrollee must make a written request to the appropriate Enrollment Office, must indicate the basis for the proposed change, and must provide supporting documentation.

2. The Enrollment Office will research the matter and forward its results to the Tribal Operations Office of the Minnesota Chippewa Tribe.

3. The recommendations of the Enrollment Office and the Tribal Operations Office shall be presented to the TEC and change must be authorized by resolution. In the event a change is authorized, the Enrollment Office and Tribal Operations Office shall make the change for all persons affected by the change.

IX. Correcting the Base Roll.

A. If an applicant demonstrates by a preponderance of all available evidence that he or she was eligible to be on the Base Roll, the Base Roll may be corrected by adding the applicant's name.

B. Applications involving an addition to the Base Roll shall be processed as set forth in Section VI.

X. Requests for Reconsideration .

Any applicant who has been denied enrollment by the Tribal Executive Committee may file a request for reconsideration in accordance with this section.

A. Time for Request. If an application is denied by the Tribal Executive Committee the applicant or a person acting on behalf of the applicant must file a request for reconsideration within thirty (30) days of the date of mailing of the notice of denial.

B. Form. Requests must be written, addressed to the Executive Director of the Minnesota Chippewa Tribe, and state the reason or reasons why the applicant believes the denial was erroneous.

C. Processing. Upon receipt of a timely request the Executive Director shall within ten (10) working days submit the application to the Review Committee, which shall convene within thirty (30) days of such submission to consider the request.

D. Consideration/Evidence. The Review Committee shall notify the applicant of the date, time and place that the Review Committee will convene to hear the request for reconsideration and that the applicant has a right to be heard in person or by representation. The applicant shall be informed that evidence not

previously submitted may be presented for consideration, and that the Review Committee will consider all evidence in the application packet. The applicant will be notified that he/she has the burden to demonstrate eligibility by a preponderance of all evidence submitted.

E. Extensions of Time. The Review Committee may extend the time for hearing an appeal upon the request of the applicant and a showing of good cause.

F. Report and Recommendation.

1. Within thirty (30) days of its hearing on the request for reconsideration, the Review Committee shall issue a written report. The report shall include a recommendation to either sustain or reverse the denial and be sent to the applicant, the Enrollment Office of the appropriate Band, and the MCT Tribal Operations Office and shall become a part of the application file.

2. If the recommendation of the Review Committee is to sustain the denial of the application, the applicant will be notified of the right to appeal to the Secretary of the Interior as provided in Article II, Section 4 of the Constitution.

3. If the recommendation of the Review Committee is to reverse the denial of the application, the matter will be remanded to the Band governing body for action consistent with this ordinance. If the application is ultimately denied by the Tribal Executive Committee following remand, the applicant will be notified of the right to appeal to the Secretary of the Interior.

G. Composition/Rules. .

1. Composition of the Review Committee. The Review Committee shall consist of six (6) persons. Each Band governing body shall appoint one (1) member. No member of a Band governing body shall be appointed. Members of the Review Committee will take an oath to abide by the Constitution and this Ordinance and to hear requests for reconsideration fairly, consistently and without bias.

2. Rules of the Review Committee. The Review Committee shall select from its members a person to preside over a hearing on a request for reconsideration. The presiding member shall have the authority to conduct the hearing, to maintain order, and to exclude evidence (oral or written) that is unduly repetitious or plainly irrelevant to the request. The Review Committee will consider all information in the application packet and all information submitted by or on behalf of the applicant.

H. Exclusive Remedy. The request for reconsideration provided for in this section is exclusive, and there is no right of review in any court, including any court established by the Tribal Executive Committee or Band governing body.

XI. Records Management. Records created or obtained in the enrollment process and possessed by the Minnesota Chippewa Tribe will be used in a manner which prevents unwarranted invasions of personal privacy.

A. Use or Disclosure of Records. Except as provided in this section, personal information will not be used or disclosed without the written consent of the individual to whom the record pertains. A disclosure occurs when information identifying an individual is revealed to a third person.

B. Exception to the General Prohibition Against Disclosure Without Consent. Written consent to disclose will not be required in the following situations:

1. Parent or Guardian. Disclosures may be made to the parent or guardian of minors and incompetents.

2. Need to Know. Disclosures may be made to employees of the Minnesota Chippewa Tribe and Band governing bodies who need the information to carry out their duties.

3. Benefits and Services. Disclosures may be made for the purpose of determining eligibility for services or benefits available to tribal members.

4. Indian Child Welfare Act (ICWA). Disclosures may be made to a social service agency or other governmental agency charged with responsibility for implementing the ICWA.

5. Court Order. Information may be disclosed pursuant to the order of a court of competent jurisdiction.

6. Law Enforcement. Disclosure may be made to a law enforcement agency, provided that the agency specifies in writing the information sought and the law enforcement activity.

7. Health and Safety. Information may be disclosed when there is an emergency involving compelling circumstances affecting the health or safety of an individual.

C. Accounting for Disclosures. When a disclosure is made under any of the exceptions set out above, the employee making the disclosure will record the date, purpose and recipient of the disclosure.

XII. Effective Date.

This ordinance shall be effective on the date of its enactment by the Tribal Executive Committee