

**TITLE X  
ENROLLMENT AND MEMBERSHIP**

**CHAPTER 1  
GENERAL PROVISIONS**

**Section 10-1-1. Authority.**

1. This Title is enacted by the Tribal Council in accordance with Article II, Section 2 of the Constitution.

2. The Tribe shall have exclusive jurisdiction to determine membership in the Tribe as provided in this Title.

**Section 10-1-2. Purpose.** Tribal membership is central to the health, welfare, economic security, and political integrity of the Tribe and elemental to the Tribe's very existence as a sovereign and independent political community. The purpose of this Title is to implement Article II, Section 2 of the Constitution and provide rules, regulations, and procedures governing the enrollment and honorary membership of eligible individuals in the Tribe as an exercise of the inherent authority of the Tribe.

**Section 10-1-3. Definitions.** Unless the context requires otherwise or another definition is provided for a particular chapter or section, in this Title:

1. "Base rolls" means the tribal rolls of April 1, 1934, January 1, 1935, or June 18, 1965, as compiled by the Bureau of Indian Affairs.

2. "Birth certificate" means an original or certified copy of a birth certificate which is not in any way altered or otherwise illegible.

3. "Certified copy" means an official copy or reproduction of an original document signed and certified by the authority issuing it.

4. "Committee" means the Ponca Tribe of Nebraska Enrollment Committee.

5. "Death certificate" means an original or certified copy of a death certificate which is not in any way altered or otherwise illegible.

6. "Department" means the Ponca Tribe of Nebraska Enrollment Department.

7. "Enrollment" means official action taken under the terms of this Title making an individual an enrolled member of the Tribe.

8. "Incapacitated person" means an incapacitated person as defined in Title III of this Code.

9. "Membership roll" means the current roll of all enrolled members of the Tribe maintained by the Committee in accordance with this Title.

**Section 10-1-4. Severability.** If any chapter, section, or provision of this Title or amendment made by this Title is held invalid, the remaining chapters, sections, and provisions of this Title and amendments made by this Title shall continue in full force and effect.

**Section 10-1-5. Sovereign Immunity.** Nothing in this Title shall be construed as limiting, waiving, or abrogating the sovereignty or the sovereign immunity of the Tribe or any of its agencies, departments, enterprises, agents, officers, officials, or employees.

## **CHAPTER 2 ENROLLMENT COMMITTEE**

**Section 10-2-1. Establishment.** There is hereby established an Enrollment Committee whose powers and duties shall be as set forth in this Chapter.

**Section 10-2-2. Composition.**

1. The Committee may consist of up to six (6) members who shall be appointed by the Tribal Council.

2. Members of the Committee shall be subject to the same rules, regulations, and policies applicable to committees of the Tribal Council.

**Section 10-2-3. Qualifications.** To be qualified to be appointed to the Committee, a person shall:

1. Be an enrolled member of the Tribe;

2. Be at least the age of majority;
3. Have no conflicts of interest, as defined in this Chapter;
4. Be willing and able to comply with the ethical duties of Committee members, as defined in this Chapter;
5. Be willing and able to perform the Committee's duties in compliance with the laws of the Tribe;
6. Have or acquire knowledge of this Title, unless the Tribal Council waives such qualification for the appointee;
7. Have or acquire knowledge, experience, or familiarity with enrollment and membership, unless the Tribal Council waives such qualification for the appointee;
8. Have the time available to actively fulfill the duties of a member of the Committee; and
9. Be willing to receive orientation and training regarding the duties of the Committee.

**Section 10-2-4. Term of Office.** The term of office for members of the Committee shall be set by the Tribal Council at the time of appointment. If the Tribal Council does not set a term for a member at the time of appointment, the member shall serve until he or she resigns, is removed, or the Tribal Council appoints his or her successor.

**Section 10-2-5. Compensation.** Members of the Committee shall be compensated at a rate set by the Tribal Council. In addition, Committee members shall be paid for mileage for every Committee meeting attended at the standard rate established for Tribal officers and employees.

**Section 10-2-6. Resignation and Removal.**

1. Any member of the Committee may resign from his or her position by delivering a written resignation to the Tribal Council.
2. The Tribal Council may, by majority vote, remove a member of the Committee for any the following:
  - a. Violating or permitting violation of this Title;

- b. Neglect of duty;
- c. Malfeasance or misfeasance in the handling of enrollment matters;
- d. Acceptance or solicitation of bribes;
- e. Violation of the ethical duties or conflict of interest provisions of this Chapter;
- f. Unexcused absence from three (3) or more committee meetings;
- g. Any crime committed against the Tribe which results in a conviction or admission of guilt; or
- h. Upon the happening of any event which would have made the member ineligible for appointment if the event had occurred prior to appointment.

3. The Tribal Council's decision to remove a member of the Committee shall be final and not subject to challenge, review or appeal.

**Section 10-2-7. Vacancies.** In the event of a vacancy on the Committee, whether by removal, resignation, or otherwise, the Tribal Council shall appoint a replacement to serve the remaining term of the Committee member being replaced. In the event of an emergency vacancy, the Tribal Council may hold a special meeting to fill the vacancy.

**Section 10-2-8. Officers.**

1. The Committee shall elect from its members a Chairperson and a Secretary at its first meeting in each calendar year or at the next meeting of the Committee if a vacancy occurs in the office of Chairperson or Secretary.

2. The Chairperson shall call and preside over Committee meetings. The Chairperson shall report to the Tribal Council as required.

3. The Secretary shall be responsible for assuring the timely and proper production, distribution, and storage of all written records of the Committee, including administrative and financial documents. The Secretary shall keep minutes of all

meetings of the Committee and shall keep informed about the Committee's expenditures and budget.

**Section 10-2-9. Ethics and Conflicts.**

1. No person may be appointed to the Committee who:

a. Is employed in the Department;

b. Is engaged in litigation against the Tribe in a matter related to the subject matter of the Committee; or

c. Has a similar interest that would necessarily conflict with the impartial performance of a Committee member's duties.

2. The Tribal Council's determination whether an applicant for the Committee is barred from appointment by a conflict of interest shall be final and not subject to challenge, review or appeal.

3. Committee members shall:

a. Avoid the appearance of impropriety;

b. Not act in an official capacity when a matter before the Committee directly and specifically affects a member's own interests or the interests of his or her immediate family;

c. Not attempt to exceed the authority granted to Committee members by this Title;

d. Recognize that the authority delegated by this Title is to the Committee as a whole, not to individual members and, accordingly, the powers of the Committee may only be exercised by the Committee acting through the procedures established by this Title;

e. Not take action on behalf of the Committee unless authorized to do so by the Committee;

f. Not involve the Committee in any controversy outside the Committee's duties; and

g. Hold all confidential information revealed during the course of Committee business in strict confidence and discuss or disclose such information only to persons who are

entitled to the information and only for the purpose of conducting official Committee business.

**Section 10-2-10. Powers and Duties of Committee.** The power, authority and duties of the Committee shall be as follows:

1. To review applications submitted by the Department at a duly called meeting of the Committee for determination of eligibility in accordance with this Title and the Constitution;

2. To recommend enrollment or denial of enrollment of individuals in accordance with this Title;

3. To dis-enroll individuals in accordance with and as provided in this Title;

4. To approve all forms created by the Department;

5. To make recommendations to the Tribal Council concerning amendments to this Title;

6. To approve all amendments to the policies and procedures of the Department;

7. To keep a current roll of members of the Tribe as provided in this Chapter;

8. To conduct a census of the members of the Tribe as provided in this Chapter;

9. To ensure that the requirements of this Title and the Constitution are carried out and enforced; and

10. To otherwise conduct, manage, and supervise enrollment and perform such other duties as prescribed in this Title.

**Section 10-2-11. Membership Roll.**

1. The Committee shall maintain a current roll of all enrolled members of the Tribe.

2. The roll shall contain, for each person listed, a roll number, name, address, sex, date of birth, degree of Ponca blood, degree of total Indian blood, date of enrollment, and a remarks column which shall contain the name and degree of relationship of the ancestor or ancestors through whom eligibility was established.

3. Notwithstanding anything to the contrary in this Title, the base rolls of the Tribe shall be the authoritative rolls to be used in establishing eligibility for membership and enrollment.

**Section 10-2-12. Annual Census.**

1. Once each year, the Committee shall conduct a census of the enrolled members of the Tribe and amend the roll of all enrolled members according to the findings of the census.

2. Information to be gathered during the census shall include, but not be limited to, persons enrolled, dis-enrolled or relinquished, and deceased during the preceding year.

3. The census shall be conducted by the Committee during the month of April and shall be completed no later than April 30th of each year.

**Section 10-2-13. Quorum.** A majority of members of the Committee shall constitute a quorum for conducting business.

**Section 10-2-14. Meetings.**

1. The Committee may hold meetings as it deems necessary.

2. The Chairperson of the Committee shall have the authority to call a meeting of the Committee as he or she sees fit in coordination with the Enrollment Specialist. In the event of vacancy in the office of Chairperson of the Committee, the Enrollment Specialist shall have the authority to call a meeting of the Committee. If it appears that the Committee has no official business to act on, a meeting which has been called or scheduled may be canceled by the Chairperson of the Committee.

3. All minutes of Committee meetings shall be kept in the Department and a copy shall be submitted to the Secretary of the Tribal Council.

**CHAPTER 3  
ENROLLMENT DEPARTMENT**

**Section 10-3-1. Establishment.**

1. There is hereby established an Enrollment Department as an agency of the Tribe, under the authority of the Tribe, and

delegated the powers, duties, and responsibilities set forth in this Title and as otherwise provided by the laws of the Tribe.

2. The Department shall consist of an Enrollment Specialist as director and such other personnel and employees as may be required.

3. The Enrollment Specialist shall be suitably skilled and capable of working with the Tribal Council, the Committee, the Election Board, members of the Tribe, and potential members.

**Section 10-3-2. General Authority.** The Department shall have the following powers, duties, and responsibilities:

1. To respond to and keep a record of all application requests;

2. To receive all applications;

3. To review all applications for contents and completeness;

4. To notify individuals of missing information needed to complete review of a request for enrollment or relinquishment;

5. To research records to obtain adequate documentation for enrollment actions;

6. To investigate and review an applicant's eligibility for membership and enrollment;

7. To request any agency of the Tribe with authority to conduct genetic testing of applicants for the purpose of establishing lineal descendance;

8. To ensure that all applications and documentation are complete before submitting to the Committee;

9. To meet with the Committee at a duly called Committee meeting;

10. To record all actions taken on specific enrollment matters;

11. To maintain accurate and current enrollment files on each member and applicant for enrollment;

12. To protect the privacy of all applicants and members of the Tribe;

13. To act as the custodian of the membership roll of the Tribe;

14. To develop application forms, notices, and other forms and documents, subject to the approval of the Committee, as required by this Title and the duties of the Department;

15. To establish policies and procedures, subject to approval of the Committee, for its internal operations; and

16. To perform all other duties delegated or assigned to the Department by this Title or other laws of the Tribe, the Tribal Council, or the Committee, and otherwise implement this Title.

#### **CHAPTER 4 ENROLLMENT RECORDS**

##### **Section 10-4-1. Enrollment Records.**

1. For purposes of maintaining a record of actions on applications, relinquishments, acknowledgments of paternity, deaths, and similar matters, the Committee and Department shall use and maintain an enrollment record.

2. Each enrollment record shall, at a minimum and subject to availability, contain:

- a. Application;
- b. Family tree, as completed;
- c. Birth certificate;
- d. Any correspondence;
- e. All other documentation on the person pertinent to membership in the Tribe; and
- f. Death certificate.

3. Notwithstanding the existence of individual enrollment records, the membership roll established and maintained by the Committee in accordance with this Title shall be the only official

record of enrollment in the Tribe and shall be utilized for all purposes related to determining the enrollment status of an individual.

**Section 10-4-2. Confidentiality.**

1. Except where expressly provided otherwise in the laws of the Tribe, individual enrollment records shall be held confidential and shall not be provided or open to inspection to any but the following:

a. The person to whom the record or information in such record pertains or, in the case of a minor or incapacitated person, the minor's or incapacitated person's parent, guardian, or custodian;

b. The Committee and personnel of the Department as necessary to fulfill their duties and perform their functions under this Title;

c. Other Tribal departments and agencies and the Tribal Attorney in the normal course of business of the Tribe, provided that such access to or provision of information from individual membership records is limited to the minimal information necessary; and

d. To others when the person to whom the record pertains, or the parent, guardian, or custodian of a minor or incapacitated person to whom the record pertains, has authorized the release of information or otherwise waived confidentiality expressly in writing.

2. Nothing in this Section shall prevent the Department or Committee from releasing information, including names, addresses, dates of birth, dates of enrollment, social security numbers, enrollment numbers, and degrees of Ponca and total Indian blood:

a. To the Tribal Attorney for purposes of assisting or representing the Tribe, Committee, or Department;

b. In a proceeding in a court to which the Department, Committee, or Tribe is a party;

c. In response to a valid subpoena or court order;

d. Confirming the enrollment status of an individual;

e. For the purpose of assisting other Tribal departments, instrumentalities, and economic enterprises with determining enrollment, membership, or eligibility for enrollment or membership of individuals in the normal course of business of such Tribal departments, instrumentalities, and economic enterprises, provided that such information is limited to the minimal information necessary;

f. For the purpose of verifying enrollment, membership, or eligibility for enrollment or membership of individuals to courts and agencies of other governments when there is a legitimate need for such information, including when such information is necessary to prove or support an individual's eligibility for a program of such other government, provided that such release of information is limited to the minimal information necessary; or

g. When a person to whom the information pertains, or the parent, guardian or custodian of a minor or incapacitated person to whom the membership file pertains, authorizes the release of information or otherwise waives confidentiality expressly in writing; or

h. Where the laws of the Tribe otherwise expressly permit or require the release of the information.

3. Any person receiving information under this Section, other than the individual applicant or member whose information is involved or his or her parent or guardian, shall maintain the confidentiality of such information and shall not use, disclose, re-disclose, or permit any unauthorized access to such information to any person except for the purpose for which such information was provided or in accordance with the written authorized release or waiver of confidentiality of the individual to whom such information pertains.

4. Records related to individual enrollment or membership shall not be removed from the offices of the Department.

5. The Department shall have the authority to charge any individual or agency outside of the Tribe for the costs of copying any records or information authorized to be released under this Section and secure the written agreement of such individual or agency to maintain the confidentiality of information received under this Section.

6. In addition to any other consequences or other remedies for a violation of this Section provided under the laws of the Tribe, any person, including a member of the Tribal Council and any department, agency, commission, committee, instrumentality, economic enterprise, official, or employee of the Tribe, who knowingly or willfully uses, discloses, re-discloses, or permits unauthorized access to confidential information protected under this Section other than as expressly authorized in this Section shall be subject to a civil fine not to exceed eight hundred dollars (\$800).

**Section 10-4-3. Access to Roll.**

1. Notwithstanding anything to the contrary in this Title and subject to the removal of private information as provided in this Section, the membership roll, including the count of names on such roll, shall be available and open to inspection to any of the following:

a. The Tribal Council, members of the Tribal Council, and any department, agency, commission, committee, instrumentality, economic enterprise, official, or employee of the Tribe for any legitimate Tribal purpose; and

b. Agencies of the United States government for the purpose of establishing the approved membership roll or for purposes of funding, services, or other benefits provided to the Tribe and its members from the United States government.

2. The Department shall make available to the Tribal Council, members of the Tribal Council, and any department, agency, commission, committee, instrumentality, economic enterprise, official, or employee of the Tribe counts of enrolled members and enrollment lists, and subsets thereof, that may contain the names, addresses, and contact information of individual enrolled members for any legitimate Tribal purpose. Any request for such lists or subsets of lists shall be submitted in writing, including electronic mail, to the Department and set forth the purpose of such request and the uses to which the list will be put to demonstrate a legitimate Tribal purpose.

3. For purposes of this Section, a "legitimate Tribal purpose" includes, but is not limited to:

a. The Tribal Council, members of the Tribal Council, departments, agencies, commissions, committees, instrumentalities, and economic enterprises of the Tribe

communicating with enrolled members regarding the business, benefits, events, and other matters of the Tribe;

b. The Tribal Council, members of the Tribal Council, departments, agencies, commissions, committees, instrumentalities, and economic enterprises of the Tribe calculating enrollment statistics for purposes of obtaining funding, services, or other benefits from other governmental agencies and private parties;

c. Members of the Tribal Council obtaining lists of the names and addresses of enrolled members for purposes related to the business of the Tribal Council or Council member, including communicating with constituents and knowledge of members residing in their districts;

d. Any purpose which has previously been determined to constitute a legitimate Tribal purpose for the same, equivalent, or similarly situated department, agency, commission, instrumentality, economic enterprise, official, or employee requesting such information; and

e. Any other purpose permitted under the laws of the Tribe or otherwise reasonable and acceptable.

4. In the event the Department cannot or does not determine that an identified purpose constitutes a legitimate Tribal purpose, the Tribal Council shall have the authority to make such determination, which shall be binding on the Department and Committee and not subject to challenge or appeal in any court or tribunal.

5. The Department shall remove enrollment numbers, dates of birth, degrees of Ponca blood and total Indian blood, dates of enrollment, remarks, phone numbers, social security numbers, other private information from any list provided to or allowed to be inspected under this Section.

6. Any person receiving lists of members under this Section shall not disclose, re-disclose, or permit any unauthorized access to such lists or information on such lists to any person except for the purpose for which such information was provided and shall protect any personal information on such lists, including addresses, from any disclosure to or access by third parties.

7. The Department shall have the authority to charge any individual or agency outside of the Tribe for the costs of copying

any records or information authorized to be released under this Section and secure the written agreement of such individual or agency to maintain the confidentiality of information received under this Section.

8. In addition to any other consequences or other remedies for a violation of this Section provided under the laws of the Tribe, any person, including a member of the Tribal Council and any department, agency, commission, committee, instrumentality, economic enterprise, official, or employee of the Tribe, who knowingly or willfully violates any provision of this Section or uses, discloses, re-discloses, or permits any unauthorized access to lists, information on such lists, or any other confidential information protected under this Section other than as expressly authorized in this Section shall be subject to a civil fine not to exceed eight hundred dollars (\$800).

#### **Section 10-4-4. Corrections to Records.**

1. Upon receipt of appropriate documentation, the Department shall make any corrections and updates to the membership roll and enrollment records as necessary, including but are not limited to the following:

- a. Date of birth;
- b. Name change;
- c. Family relationships;
- d. Revisions to degrees of Ponca or total Indian blood;
- e. Removal from membership roll due to death; and
- f. Relinquishment of enrollment in the Tribe.

2. Any correction or update to the membership roll or an enrollment record shall have documentation to support the changes being made. Without limiting the documentation which may be used to make an update or correction to the membership roll or an enrollment record, the following documentation shall be deemed adequate to make the update or correction described:

- a. For a name change, a marriage license, divorce decree, adoption decree, or court order changing an individual's name;

b. For an address change, an address form, written request, or notification signed by an adult member on his or her own behalf or as parent, guardian, or custodian of a minor or incapacitated person; and

c. For death, a death certificate or a notarized statement made under oath from an individual who attended the funeral.

## **CHAPTER 5 ENROLLMENT PROCEDURES**

**Section 10-5-1. Definitions.** Unless the context requires otherwise or another definition is provided for a particular section, in this Chapter:

1. "Applicant" means the individual named on a submitted application for enrollment who is being considered for enrollment in the Tribe.

2. "Application" means an application for enrollment made on the form approved by the Committee and includes and any all information and documentation submitted with or on the application or otherwise supporting or related to the application, including information or documentation obtained by the Department from its own investigations.

3. "Biological genealogical information" means documentation which tends to support or negate an assertion that the person to whom the documentation relates is or was a lineal descendant of an enrolled member of the Tribe or an individual on one of the base rolls.

4. "Biological lineal descendant" means a person related by blood in any degree to an individual.

**Section 10-5-2. Eligibility for Enrollment.**

1. The following individuals shall be eligible for enrollment in the Tribe:

a. All individuals and their biological lineal descendants listed on one of the base rolls; and

b. All individuals entitled to be listed on the membership roll of June 18, 1965 who were not listed on the roll, notwithstanding the application or appeal deadline dates of Public Law 87-629, 76 Stat. 429.

2. Notwithstanding subsection 1 of this Section, the following individuals shall not be eligible for enrollment in the Tribe:

a. Individuals of Indian blood of another Indian tribe who do not possess any Ponca blood;

b. Non-biological lineal descendants of members, including by adoption and assisted reproduction, who do not possess any Ponca blood;

c. Other individuals who do not possess any Ponca blood;

d. Individuals who have relinquished their enrollment in the Tribe within the previous three (3) years, except as otherwise provided in this Title;

e. Individuals who are enrolled in another federally recognized Indian tribe and have not either:

i. Relinquished their enrollment in the other tribe; or

ii. Made their relinquishment of enrollment in the other tribe conditional upon the individual's enrollment in the Tribe; and

f. Individuals who otherwise do not meet the requirements set forth in subsection 1 of this Section.

2. Notwithstanding anything to the contrary in this Title, a minor who is enrolled in another federally recognized Indian tribe but is otherwise eligible for enrollment in the Tribe shall be considered eligible for membership and eligible for enrollment in the Tribe for purposes of any child custody proceeding involving the minor in any court, including any proceeding subject to the Indian Child Welfare Act.

**Section 10-5-3. Dual Enrollment.**

1. Any individual who is enrolled in another federally recognized Indian tribe shall relinquish all rights to enrollment he or she may have in the other tribe as a condition of his or her enrollment in the Tribe and not be eligible for enrollment in the Tribe unless and until he or she has relinquished all enrollment rights in the other tribe.

2. Any individual who has received a per-capita payment from another Indian tribe shall not be entitled to receive a per-capita payment from the Tribe for a period of three (3) years from the individual's official date of enrollment in the Tribe. For purposes of this subsection, "per-capita payment" means a distribution of money to all members of a tribe or identified groups of members paid from treaty obligations, acts of the United States Congress, and/or net revenues of a tribe or its economic enterprises, but does not include payments which have been set aside by a tribe for special purposes or programs, such as payments made for social welfare, medical assistance, education, housing or other similar, specifically identified needs.

3. Any enrolled member of the Tribe who becomes enrolled in another federally recognized Indian tribe shall be deemed to have abandoned his or her enrollment in the Tribe and be dis-enrolled pursuant to this Title.

4. Notwithstanding anything to the contrary in this Title, a minor who is enrolled in the Tribe and in another federally recognized Indian tribe shall be and remain enrolled in the Tribe while under the age of majority. However, upon the minor reaching the age of majority, the Department shall notify the minor in writing that he or she must choose whether to remain a member of the Tribe and relinquish membership in the other tribe. The notice shall provide a reasonable time within which to accomplish the relinquishment and to provide documentation to the Department. If the minor fails to relinquish membership in the other tribe within the time allowed, the Department shall begin proceedings to review the minor's enrollment and dis-enroll the minor as provided in this Title.

**Section 10-5-4. Burden of Proof.** The burden of proving that an individual is eligible for enrollment in the Tribe shall be solely on:

1. The individual seeking enrollment; or

2. If enrollment is sought on behalf of an individual as permitted in this Chapter, the person who filed the application for enrollment.

**Section 10-5-5. Application.**

1. Any individual who wishes to be considered for enrollment in the Tribe shall file an application with the Department on the form prescribed by the Department in accordance with this Title.

2. Applications may be filed by any individual on his or her own behalf or may be filed by a parent, guardian, custodian, next of kin, or official of the Tribe on behalf of:

- a. A minor;
- b. A deceased person;
- c. An incapacitated person or other person in need of assistance; or
- d. A member of the armed forces stationed outside the continental United States.

3. Applicants shall submit, at a minimum, the following information:

- a. Name, address, and social security number of the applicant;
- b. Indian, maiden, or other name by which the applicant is known;
- c. Date and place of birth of the applicant;
- d. Birth certificate;
- e. If making the application on behalf of another, the name, address, and relationship of the person making the application;
- f. The name and enrollment number of the applicant's parents, grandparents, or other lineal ancestors who are or were enrolled in the Tribe;

g. The name of any federally recognized Indian tribes, other than the Tribe, in which each parent is enrolled, if any, and enrollment number;

h. If Indian blood from other tribes is to be considered or recorded, an original certified family tree or certificate of degree of Indian blood from the other tribes;

i. The name, address, and degree of Indian blood, if any, both Tribal and total, as verified by the Department in accordance with official records, of each parent and grandparent of the applicant;

j. Whether the applicant is enrolled with another tribe and, if so, whether the applicant has either:

i. Relinquished his or her enrollment in the other tribe; or

ii. Made his or her relinquishment of enrollment in the other tribe conditional upon the individual's enrollment in the Tribe;

k. Whether the applicant has previously relinquished his or her enrollment in the Tribe and, if so, the date such relinquishment became effective; and

l. Certification that the information given is true and an acknowledgment that, if found fraudulent in any way, may be grounds for removal of the applicant's name from the membership roll.

4. Each application shall be accompanied by adequate documentation demonstrating eligibility for enrollment, including, but not be limited to:

a. Proof of biological parentage, such as:

i. A birth certificate which lists the parent with Ponca ancestry as a parent;

ii. A parentage order issued by a court of competent jurisdiction which demonstrates parentage based on genetic testing at least as stringent as that required by this Chapter; or

iii. The results of a genetic test conducted in accordance with this Chapter;

b. Biological genealogical information, such as current and historic tribal membership rolls; census records; records of birth, death, marriage, and divorce; records relating to the ownership, possession, transfer, and status of real property; school, church, and court records; records relating to military service; newspaper and other publications; diaries; correspondence; scrapbooks; and photographs and notations thereon;

c. If the applicant's name has been changed:

i. The marriage license or certificate or divorce decree showing the applicant's original name, if the change is due to marriage or divorce;

ii. The adoption decree showing the applicant's original and changed names, if the name change is due to adoption; or

iii. The court order showing the applicant's original and changed names as well as the names of the applicant's biological parents, if necessary;

d. If the applicant has been adopted, the adoption decree showing the names of the applicant's biological parents;

e. If the applicant is enrolled in another federally recognized Indian tribe, a signed and notarized written request to relinquish from that tribe, which may be contingent on enrollment in the Tribe, and a written response from that tribe; and

f. Any other evidence which the applicant believes may assist the Department and Committee in determining whether the applicant meets the requirements for enrollment in the Tribe set forth in Article II, Section 1 of the Constitution and this Title.

#### **Section 10-5-6. Receipt of Application.**

1. Upon receipt of an application, the Department shall stamp the application with the date it was received.

2. Within ten (10) days of receipt of an application, the Department shall review the application to determine if it is complete and provide a notice to the applicant in writing. The notice shall:

a. Inform the applicant that the Department has received the application;

b. Inform the applicant whether the application is complete and accompanied by all needed documentation;

c. If the application is complete, inform the applicant that the Department will review the application to make an initial determination of the applicant's eligibility for enrollment; and

d. If the application is not complete or not accompanied by all needed documentation, include the information required for a notice of deficiency as provided in this Chapter.

3. If the Department determines that an application is complete, the Department shall make an initial determination of eligibility of the applicant for enrollment based on the application and any investigation the Department may conduct on its own.

4. If the Department makes an initial determination that an applicant is eligible for enrollment, the Department shall submit the application to the Committee for review at its next scheduled meeting. If the Committee has not set a scheduled meeting, the Enrollment Specialist shall ensure a meeting is called in accordance with this Title.

5. Upon completing its initial determination of eligibility for enrollment, the Department shall provide notice to the applicant in writing. The notice shall:

a. Inform the applicant that the Department has reviewed the application and made an initial determination of eligibility for enrollment;

b. If the Department makes an initial determination that an applicant is eligible for enrollment, inform the applicant:

i. That the Department has made an initial determination that the applicant is eligible;

ii. That the application will be forwarded to the Committee;

iii. That the Committee will review the application at its next scheduled meeting; and

iv. State the date and time of the Committee's next scheduled meeting, if known; and

c. If the Department determines that an applicant is not eligible for enrollment, inform the applicant:

i. The basis for the Department's determination that the applicant is not eligible for enrollment;

ii. If the Department's determination is based on a lack of information or documentation, that the applicant may re-apply documentation as provided in this Chapter for enrollment with the needed information or documentation; and

iii. That the applicant has a right to appeal the Department's determination in accordance with this Title.

#### **Section 10-5-7. Committee Review.**

1. Upon receipt of an application with an initial determination of eligibility from the Department, the Committee shall review the application at a duly called meeting of the Committee.

2. If the Committee determines that the application is not complete or not accompanied by sufficient documentation upon which a determination of eligibility for enrollment can be made, it may table the application. In all other cases, the Committee shall make a determination of the applicant's eligibility for enrollment based on the application.

3. The Committee may give such weight that it believes is appropriate to the information and documents provided by the applicant or obtained by the Department.

4. When the Committee makes a determination of an applicant's eligibility for enrollment, it shall make a report on the application, which shall be signed by at least two (2) members of the Committee, and include:

a. The Committee's findings regarding the applicant's eligibility;

b. The Committee's determination of the applicant's eligibility for enrollment;

c. If the Committee determines that the applicant is eligible for enrollment, a recommendation that the applicant be enrolled; and

d. If the Committee determines that the applicant is not eligible for enrollment, a recommendation that the applicant be denied enrollment.

5. Upon completing its review of an application, the Department shall provide notice to the applicant in writing. The notice shall:

a. Inform the applicant that the Committee has received the application;

b. Inform the applicant that the Committee has reviewed the application;

c. If the Committee tables the application:

i. Inform the applicant that the application is not complete and/or not accompanied by all needed documentation;

ii. Inform the applicant that the Committee has tabled action on the application; and

iii. Include the information required for a notice of deficiency as provided in this Chapter;

d. If the Committee makes a determination of eligibility for enrollment, inform the applicant that the Committee made a determination of eligibility for enrollment;

e. If the Committee determines that the applicant is eligible for enrollment, inform the applicant:

i. That the Committee has made a determination that the applicant is eligible;

ii. That the Committee will forward a report to the Tribal Council with a recommendation for enrollment; and

iii. State the date and time of the Tribal Council meeting where the applicant's enrollment will be considered, if known; and

f. If the Committee determines that an applicant is not eligible for enrollment, inform the applicant:

i. That the Committee has made a determination that the applicant is not eligible for enrollment;

ii. The basis for the Committee's determination that the applicant is not eligible for enrollment; and

iii. That the Committee will forward a report to the Tribal Council with a recommendation that the applicant not be enrolled in the Tribe.

6. Upon completion of its report on the application, the Committee shall submit it to the Department, who shall:

a. Based on the Committee's recommendation, prepare a draft resolution for Tribal Council either enrolling the applicant in the Tribe or denying enrollment in the Tribe;

b. Have the application placed on the agenda for the next available Tribal Council meeting; and

c. Submit the draft resolution and the Committee's report on the application to the Tribal Council for the Tribal Council meeting where the application will be heard.

**Section 10-5-8. Tribal Council Approval.**

1. Official enrollment in the Tribe shall be by resolution adopted by the Tribal Council in accordance with the laws of the Tribe.

2. Upon an application being placed on the agenda of a Tribal Council meeting and receipt of a draft resolution to enroll

or deny enrollment to an applicant along with the Committee's report on the application, the Tribal Council shall review the resolution and report.

3. After review, the Tribal Council may:

a. Accept the recommendation of the Committee and adopt the resolution as submitted by the Department, with or without modification;

b. Reject the recommendation of the Committee and adopt such resolution reflecting the Tribal Council's decision on the applicant's enrollment as the Tribal Council may decide; or

c. Return the application to the Committee with instructions to reconsider the application, including permitting the applicant to provide any additional information or documentation the Tribal Council may require.

**Section 10-5-9. Notice of Enrollment Action.** Upon the Tribal Council completing its review of the Committee's report on the application and consideration of the resolution, the Department shall provide notice to the applicant in writing by certified mail. The notice shall:

1. Inform the applicant that the Tribal Council has reviewed the applicant's request for enrollment;

2. If the Tribal Council returns the application to the Committee:

a. Inform the applicant that the Tribal Council has returned the application to the Committee for reconsideration;

b. If the Tribal Council decided that the applicant needs to provide further information or documentation, include the information required for a notice of deficiency as provided in this Chapter;

3. If the Tribal Council adopts a resolution to enroll the applicant in the Tribe, include a certificate of enrollment prepared in accordance with this Chapter and inform the applicant:

a. That the Tribal Council has enrolled the applicant in the Tribe;

b. That the individual has been added to the membership roll; and

c. Of the member's enrollment number assigned by the Department; and

4. If the Tribal Council adopts a resolution denying the applicant enrollment in the Tribe, inform the applicant:

a. That the Tribal Council has denied the applicant's enrollment in the Tribe;

b. The reasons the Tribal Council denied the applicant's enrollment; and

c. That the applicant has a right to appeal the Tribal Council's denial in accordance with this Title.

**Section 10-5-10. Enrollment of Member.**

1. Upon adoption of a resolution enrolling an applicant in the Tribe, the Department shall:

a. Immediately add the individual to the membership roll;

b. Assign the member an enrollment number;

c. Complete a certificate of enrollment in accordance with this Section; and

d. Provide notice to the member in accordance with this Chapter.

2. Each individual who is enrolled in the Tribe shall be issued a certificate of enrollment. The certificate of enrollment shall include the following information:

a. The full name of the member;

b. The member's enrollment number;

c. The member's date of birth;

d. The member's social security number, unless the member requests otherwise;

e. The member's degree of Ponca blood, if the applicant requests it;

f. The number and date of the resolution adopted by the Tribal Council enrolling the member; and

g. The date of issuance and signature of the Enrollment Specialist.

**Section 10-5-11. Genetic Testing.**

1. Genetic testing to demonstrate parentage or other biological lineal ancestry must be performed in a testing laboratory accredited by:

a. The American Association of Blood Banks, or a successor to its functions;

b. The American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or

c. An accrediting body designated by the federal Secretary of Health and Human Services.

2. Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in calculation of the probability of parentage or biological lineal ancestry.

3. The results of genetic testing shall be set forth in a report and sent directly to the Department from the laboratory.

4. A report of genetic testing must be in writing and signed under penalty of perjury by a designee of the testing laboratory.

5. Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be relied upon by the Department:

a. The names and photographs of the individuals whose specimens have been taken;

b. The names of the individuals who collected the specimens;

- c. The places and dates the specimens were collected;
- d. The names of the individuals who received the specimens in the testing laboratory; and
- e. The dates the specimens were received.

6. In the absence of documentation sufficient to establish chain of custody as provided in this Section, the applicant shall demonstrate a reliable chain of custody for the results of genetic testing which shall include documentation of individuals who have had physical possession of the specimens and genetic tests and the process used to maintain and document the chronological history of the specimens and genetic tests, such as name or initials of the individual collecting the specimens, each person or entity subsequently having physical possession of them, dates the specimens were collected or transferred, from where the specimens were collected, and agency and case number.

7. For purposes of this Chapter, a person is identified as the parent or biological lineal ancestor of an applicant if the genetic testing complies with this Section and the results disclose that:

- a. The person has at least a ninety-two percent (92%) probability of parentage or biological lineal ancestry, using a prior probability of 0.50, as calculated by using the combined parentage or appropriate ancestry index obtained in the testing; and

- b. A combined parentage or ancestry index of at least 100 to 1.

8. The costs of a genetic test is the sole responsibility of the applicant or, if enrollment is sought on behalf of another, the person who filed the application.

**Section 10-5-12. Application Deficiency.**

1. In the event the Department or the Committee finds that an applicant misrepresented or omitted facts which may change the determination of the applicant's eligibility for enrollment, the review of the application shall be halted and the Department shall send a written notice of deficiency to the applicant by certified mail. The notice shall:

a. Inform the applicant that review of the application has been halted;

b. Inform the applicant of the reasons for halting review of the application;

c. Specifically identify the information and/or documentation needed and/or the misrepresentations that need clarification; and

d. Inform the applicant that he or she will have thirty (30) days from receipt of the notice to submit the requested information and/or documentation.

2. If the applicant does not submit the requested information and/or documentation by the expiration of thirty (30) days from the applicant's receipt of the notice of deficiency, the Department shall send a written notice to the applicant, which shall be sent no later than fifteen (15) days before the next meeting of the Committee if the application is before the Committee. The notice shall state:

a. If the application is before the Department, that the application will be denied fifteen (15) days from receipt of the current notice; and

b. If the application is before the Committee:

i. That the application for enrollment will be denied at the next meeting of the Committee;

ii. That the applicant may attend the meeting of the Committee to present evidence that he or she feels will prove his or her eligibility for enrollment in the Tribe; and

iii. The applicant may submit the requested information and/or documentation prior to the meeting of the Committee.

3. If the applicant is denied enrollment as a result of failure to provide requested information and/or documentation pursuant to this Section, the Department shall provide written notice to the applicant by certified mail. The notice shall:

a. Inform the application that his or her application for enrollment has been denied;

b. That the application for enrollment has been denied for failure to provide information and/or documentation requested by the Committee or the Department, as the case may be;

c. That the applicant may re-apply for enrollment documentation as provided in this Chapter with the needed information or; and

d. That the applicant has a right to appeal the denial in accordance with this Title.

**Section 10-5-13. Appeal.** Any individual who is denied enrollment has the right to appeal such action in accordance with this Title. Nothing in this Chapter shall be construed as creating a right to appeal or otherwise allowing an appeal of the Committee's recommendation to approve enrollment or the Tribal Council's decision to enroll a member.

**Section 10-5-14. Re-application.** If an applicant is denied enrollment, the applicant may re-apply for enrollment if:

1. The applicant's appeals have been exhausted or the time for appeal has expired;

2. At least six (6) months have passed since the applicant's enrollment was denied; and

3. The applicant can produce evidence and/or documentation which was unavailable at the time of the original application that demonstrates the applicant is eligible for enrollment.

**Section 10-5-15. Notices.**

1. Every applicant or other individual subject to action under this Chapter shall be entitled to written notice of actions taken at each stage of the application process or other action involved, whether such notice is expressly required in this Chapter or not, including, but not limited to:

a. Receipt of the application;

b. Need for further information or documentation;

c. Action taken by the Department, the Committee or the Tribal Council;

d. Upcoming dates where the application or an appeal will be reviewed or considered by the Committee or the Tribal Council; and

e. Action taken concerning an appeal, if filed.

2. All notices required by this Chapter shall be in writing and sent to the last known address on file with the Department and any notice so sent shall be deemed adequate and in compliance with this Chapter.

## **CHAPTER 6 REMOVAL FROM ENROLLMENT**

**Section 10-6-1. Generally.** An enrolled member of the Tribe may be removed from the membership roll and no longer be an enrolled member of the Tribe by either relinquishing his or her enrollment or being dis-enrolled in accordance with this Chapter.

**Section 10-6-2. Relinquishment.**

1. Except as otherwise provided in this Chapter, any member of the Tribe may voluntarily relinquish his or her enrollment in the Tribe in accordance with this Chapter.

2. Relinquishment of enrollment may be either absolute or made conditional upon the relinquishing member's enrollment in another tribe.

3. The enrollment of a minor may only be relinquished if:

a. The minor is eligible for enrollment in another federally recognized Indian tribe;

b. An application for enrollment of the minor in the other tribe has been made;

c. The relinquishment of enrollment is conditional upon the minor's enrollment in the other tribe and not absolute; and

d. The minor is not the subject of:

i. A proceeding or dispute involving the custody, visitation, or parenting time of the minor;

ii. A proceeding involving child support for the minor;

iii. A proceeding involving parentage of the minor;

iv. A child in need of assistance proceeding under Title III of this Code or similar proceeding under the laws of another jurisdiction;

v. A child offender proceeding under Title III of this Code;

vi. A proceeding involving the foster care placement, adoptive placement, or termination of parental rights to the child; or

vii. Any other proceeding where relinquishment of the minor's enrollment may deprive the Tribal Court of jurisdiction over the minor or the proceeding involving the minor or impair the Tribe's interest in a proceeding involving the minor; and

e. If the minor is fifteen (15) years of age or older and not an incapacitated person, the minor consents to the relinquishment.

4. If a relinquishment of enrollment is conditional upon the relinquishing member's enrollment in another tribe:

a. The relinquishing member shall be responsible for informing the Department of the status and progress of the relinquishing member's pending enrollment in the other tribe, including, but not limited to, all actions taken regarding the relinquishing member's pending enrollment in the other tribe;

b. No action will be taken on the relinquishment unless and until the relinquishing member provides the Department with documentation that the relinquishing member's enrollment in the other tribe has been granted; and

c. In the event the relinquishing member's enrollment in the other tribe is rejected or denied, the relinquishment shall be null and void and the relinquishing member shall remain a member of the Tribe and shall not be removed from the membership roll.

**Section 10-6-3. Request for Relinquishment.**

1. Any individual who wishes to relinquish his or her enrollment in the Tribe shall file a notice of relinquishment with the Department, signed, acknowledged and verified before a notary public in accordance with this Section.

2. Notices of relinquishment may be filed by any individual on his or her own behalf or may be filed by a parent or legal guardian on behalf of:

- a. A minor; or
- b. An incapacitated person.

3. A notice of relinquishment shall include, at a minimum, the following information:

- a. Name, address, and enrollment number of the relinquishing member;

- b. A statement that the relinquishing member, or the individual acting on the relinquishing member's behalf, desires to relinquish his or her enrollment;

- c. A statement whether the relinquishment is absolute or conditional on enrollment in another tribe;

- d. If the relinquishment is conditional upon enrollment in another tribe, the specific name of the other tribe in which the relinquishing member is seeking enrollment;

- e. If the notice is filed or executed on behalf of a relinquishing member, his or her relationship to the relinquishing member; and

- f. The signature of the relinquishing member or the individual filing the notice on behalf of the relinquishing member.

4. If a notice of relinquishment is filed on behalf of a relinquishing member, the notice shall be accompanied by adequate documentation to demonstrate the individual filing the notice has the authority to relinquish the member's enrollment in the Tribe, including, but not be limited to:

a. Proof that the individual filing the relinquishment has legal custody or guardianship of the relinquishing member, such as:

i. A birth certificate which lists the individual as the parent;

ii. A final custody order issued by a court of competent jurisdiction which grants the individual legal custody of the relinquishing member; or

iii. A final order issued by a court of competent jurisdiction appointing the individual as the permanent legal guardian of the relinquishing member;

b. Proof that the individual filing the relinquishment has decision-making authority for the relinquishing member with respect to relinquishment, such as a final order issued by a court of competent jurisdiction setting out the decision-making or other authority of the individual, including any limitations on such authority;

c. If the relinquishing member is a minor:

i. Proof that the minor is eligible for enrollment in another federally recognized Indian tribe and that the individual filing the notice has applied to enroll the minor in such other tribe;

ii. If parental rights have been terminated, proof that parental rights have been terminated, such as a court order terminating parental rights or acknowledging or approving a relinquishment of parental rights;

iii. If parental rights have not been terminated, written consent of each parent whose parental rights have not been terminated to the relinquishment, acknowledged and verified before a notary public in accordance with this Section, unless the decision-making authority related to relinquishment and enrollment has been removed from a parent and such removal is supported by appropriate documentation;

iv. A statement that there is no pending or anticipated proceeding involving the minor, whether a voluntary or involuntary proceeding and including foster

care placement, adoptive placement, termination of parental rights, child custody, child support, parentage, separation, and dissolution, acknowledged and verified before a notary public in accordance with this Section; and

v. If the minor is fifteen (15) years of age or older and is not an incapacitated person, the signature of the minor, acknowledged and verified in accordance with this Section; and

d. If the relinquishing member is an incapacitated person:

i. A final order from a court of competent jurisdiction or a written statement, based upon examination, from a physician or qualified mental health professional declaring the relinquishing member to be an incapacitated person; and

ii. If the relinquishment is not conditioned on enrollment in another tribe, an order of the Tribal Court expressly finding that absolute relinquishment of enrollment in the Tribe is in the incapacitated person's best interests and the individual filing the notice of relinquishment has the authority to absolutely relinquish the incapacitated person's enrollment.

5. The acknowledgment of a notary public on a notice of relinquishment shall be of the kind, under the law of the jurisdiction where notarized, which means:

a. That the member who is relinquishing enrollment is named as the relinquishing member on the notice;

b. That the person executing the notice personally appeared before the notary public on the date and in the jurisdiction identified in the notice; and

c. That the person executing the notice actually signed the notice before the notary public.

6. The verification of a notary public on a notice of relinquishment shall be of the kind, under the law of the jurisdiction where notarized, which means the person executing the notice swears or affirms:

- a. The notice is signed without coercion;
- b. He or she is aware of the content of the notice of relinquishment; and
- c. The facts and statements made in the notice of relinquishment are true and correct to the best of the person's knowledge.

7. The Department may develop forms for use in relinquishing enrollment in accordance with this Title and the Committee may require the use of such forms for all relinquishments.

**Section 10-6-4. Receipt of Relinquishment Notice.**

1. Upon receipt of a notice of relinquishment, the Department shall stamp the notice with the date it was received.

2. Within ten (10) days of receipt of a notice of relinquishment, the Department shall review the notice to determine if it is complete and provide a notice to the relinquishing member in writing. The notice shall:

- a. Inform the relinquishing member that the Department has received the notice;

- b. Inform the relinquishing member whether the notice is complete and accompanied by all required documentation;

- c. If the notice is complete and the relinquishment is absolute, inform the member that he or she is dis-enrolled and the effective date of the relinquishment;

- d. If the notice is complete and the relinquishment is conditioned on enrollment in another tribe, inform the relinquishing member that he or she is solely responsible for informing the Department of:

- i. The status and progress of his or her enrollment in the other tribe; and

- ii. All actions taken regarding his or her pending enrollment in the other tribe; and

- e. If the notice is not complete or not accompanied by all required documentation, specifically identify the

information and/or documentation required to complete the relinquishment.

3. If the Department determines that a notice of relinquishment is complete, the Department shall remove the member from the membership roll as provided in this Chapter unless the Department determines that the relinquishment does not comply with the requirements of this Chapter.

4. Once a relinquishment is effective, the Department shall provide written notice to the relinquishing member of the effective date of the relinquishment.

**Section 10-6-5. Dis-enrollment.** A member of the Tribe may be involuntarily dis-enrolled if the Department or the Committee finds that:

1. The member is an adult and enrolled in another federally recognized Indian tribe;

2. The member misrepresented or omitted facts and/or documentation which demonstrate that the member is not eligible for enrollment; or

3. The member was enrolled as a result of false information, a forged document, or administrative error.

**Section 10-6-6. Notice of Dis-enrollment Action.**

1. If the Department or the Committee finds that a member may be subject to dis-enrollment, the Department shall provide written notice to the member by certified mail. The notice shall:

a. Inform the member that the Committee will review the member's enrollment;

b. Inform the member of the reasons for reviewing his or her enrollment;

c. Specifically identify any information and/or documentation needed or any misrepresentations, falsehoods or omissions that need clarification; and

d. Inform the applicant that he or she will have thirty (30) days from receipt of the notice to submit the requested information and/or documentation.

2. If the first notice sent pursuant to this Section is returned to the Department undelivered, the Department shall send the notice a second time. If the notice is returned a second time, the Committee may proceed with reviewing the member's enrollment without further notification to the member except for notice of the Committee's decision.

3. If the member does not submit the requested information and/or documentation by the expiration of the thirty (30) days from the member's receipt of the notice, the Department shall send another written notice to the member at least fifteen (15) days prior to the next meeting of the Committee. If the Committee has not set a scheduled meeting, the Enrollment Specialist shall ensure a meeting is called in accordance with this Title. The notice shall state:

a. That the member's enrollment will be reviewed at the next meeting of the Committee;

b. That the Committee may decide that the member will be dis-enrolled;

c. That the applicant may attend the meeting of the Committee to present evidence that he or she feels will prove his or her eligibility for enrollment in the Tribe; and

d. The applicant may submit the requested information and/or documentation prior to the meeting of the Committee.

**Section 10-6-7. Dis-enrollment Hearing.**

1. After all required notices have been provided to a member who may be subject to dis-enrollment, the Committee shall review the member's enrollment at a duly called meeting of the Committee.

2. The burden of proving that a member must be dis-enrolled shall be on the Department or other party which initiated the dis-enrollment proceeding.

3. The Committee may dis-enroll a member only if:

a. There is documentation that proves the member is not eligible to be enrolled in the Tribe; or

b. There is a lack of information and/or documentation to prove that the member is eligible for enrollment in the

Tribe and a determination of eligibility can only be made with such information and/or documentation.

4. After the Committee reviews a member's eligibility for enrollment pursuant to this Section and makes a decision, the Department shall provide written notice to the member by certified mail. The notice shall inform the member:

a. That the Committee has reviewed the member's eligibility for enrollment;

b. Whether the Committee decided the member will be dis-enrolled or remain enrolled;

c. If the Committee decided to dis-enroll the member, the specific reasons the Committee dis-enrolled the member, including specifically identifying any information and/or documentation requested by the Committee or the Department, as the case may be, which was not provided; and

d. That the applicant has a right to appeal the denial in accordance with this Title.

**Section 10-6-8. Effective Date of Removal from Enrollment.**

1. A relinquishment of enrollment shall be effective immediately upon:

a. In the case of an absolute relinquishment, the date the Department receives a complete notice of relinquishment; and

b. In the case of a relinquishment conditional upon enrollment in another tribe, the date the relinquishing member is enrolled in the other tribe identified in the notice of relinquishment.

2. No express action shall be required by the Department, the Committee, or other agency, department or body of the Tribe to make a relinquishment effective.

3. A dis-enrollment shall be effective after the expiration of the time to appeal or, if an appeal is filed, after the dis-enrolled individual's appeals have been exhausted.

4. The fact that the name of an individual who has validly relinquished enrollment or who has validly been dis-enrolled

remains on the membership roll of the Tribe shall not alter the effectiveness or validity of a relinquishment or dis-enrollment that is otherwise valid under this Chapter.

**Section 10-6-9. Removal from Enrollment.**

1. Upon the effective date of a relinquishment or dis-enrollment:

a. The name of the relinquishing or dis-enrolled individual shall be removed from the current membership roll; and

b. The individual shall not be entitled to any rights, benefits, or privileges, whether individual or Tribal in nature, accruing to enrolled members of the Tribe as a result of their status as enrolled members of the Tribe.

2. Relinquishment of enrollment shall not deprive an individual of any rights or benefits which vested in the individual prior to the effective date of relinquishment.

3. If an individual is dis-enrolled as a result of having obtained enrollment by fraudulent action for which he or she is culpable or by intentional or knowing misrepresentation or omission of facts, the Tribe shall have the right to recover all benefits associated with enrollment paid or otherwise provided to the dis-enrolled individual during the term of his or her enrollment in the Tribe.

**Section 10-6-10. Appeal.**

1. If the Department fails or refuses to dis-enroll a member after the Department receives a complete notice of relinquishment, the member may appeal such failure or refusal in accordance with this Title.

2. Any individual who is dis-enrolled has the right to appeal such action in accordance with this Title.

3. Nothing in this Chapter shall be construed as:

a. Creating a right to appeal or otherwise allowing an appeal of the Department's acceptance of relinquishment or the Committee's decision to not dis-enroll a member;

b. As requiring approval of any relinquishment by the Committee or the Tribal Council; or

c. As requiring approval of any dis-enrollment by the Tribal Council.

**Section 10-6-11. Re-enrollment.**

1. Any person who has relinquished his or her enrollment in the Tribe shall not be eligible to be re-enrolled in the Tribe for a period of three (3) years from the effective date of the relinquishment and no application for re-enrollment shall be considered prior to that time unless:

a. The individual's enrollment was relinquished on his or her behalf when he or she was a minor and the individual files an application to be re-enrolled after reaching the age of majority; or

b. The individual's enrollment was relinquished on his or her behalf when he or she was declared incapacitated and the individual files an application to be re-enrolled after being determined to no longer be incapacitated.

2. If an individual is dis-enrolled, he or she may reapply for enrollment upon proving that the reason for dis-enrollment no longer exists.

3. In addition to any other requirements of this Section, an individual may only be considered for re-enrollment if the individual files a new application for enrollment with the Department under the same requirements and subject to the same procedures and conditions applicable to new members, including providing documentation of relinquishment of enrollment in another federally recognized Indian tribe, if applicable.

**CHAPTER 7  
APPEAL PROCEDURE**

**Section 10-7-1. Notice of Appeal.** An appeal of an enrollment action permitted in this Title may be taken only by filing a notice of appeal with the Secretary of the Tribal Council no later than thirty (30) days after the aggrieved individual received notice of the action to be appealed.

**Section 10-7-2. Receipt of Appeal.**

1. Upon receipt of a notice of appeal pursuant to this Chapter, the Secretary of the Tribal Council, or his or her designee, shall schedule a hearing before the Tribal Council to occur within thirty (30) days of the Secretary's receipt of the notice of appeal. The Secretary may schedule the hearing by having it added to the agenda of a Tribal Council meeting.

2. After scheduling the hearing, the Secretary, or his or her designee, shall provide written notice to the appellant via certified mail no less than fifteen (15) days before the date of the hearing. The notice shall inform the appellant:

a. That the reason for the hearing is to consider the appeal of the appellant;

b. Of the date, time, and location of the hearing;

c. That he or she is entitled to present evidence and/or witnesses in support of the appeal;

d. That the Department and/or the Committee may present evidence and/or witnesses in support of the action being appealed; and

e. That he or she may be represented by legal counsel admitted to practice law in the Tribal Court at his or her own expense.

**Section 10-7-3. Hearing.**

1. The Tribal Council shall conduct a hearing of an appeal. The Tribal Council may conduct a hearing pursuant to this Chapter at a scheduled Tribal Council meeting or at a special Tribal Council meeting called specifically to hear the appeal.

2. Hearings under this Chapter shall be conducted in open session unless the appellant requests the hearing to be conducted in executive session or the Tribal Council determines that an executive session is necessary to protect confidentiality.

3. The Chair of the Tribal Council shall preside over the hearing and make any decisions on procedure.

4. An appellant denied enrollment or relinquishment shall bear the burden of proving that he or she is eligible for enrollment in the Tribe or can relinquish his or her enrollment

under the provisions of the Constitution and this Title by clear and convincing evidence. The Department and Committee shall bear the burden of proving that an appellant who is dis-enrolled is required to be dis-enrolled under the provisions of this Title by clear and convincing evidence.

5. The appellant, the Committee, and the Department shall each be given the opportunity to present evidence and/or witnesses at the hearing to support their respective positions.

6. The evidence presented at the hearing together with any documentation submitted to the Department by the appellant or to the Committee by the Department shall constitute the record.

**Section 10-7-4. Deliberation and Decision.**

1. After the hearing, the Tribal Council shall review the evidence and consider a decision. The Tribal Council's review shall be conducted in executive session even if the hearing was conducted in open session.

2. The Tribal Council shall decide the appeal in open session by vote of the members of the Tribal Council present. The decision of the Tribal Council shall be based on the evidence heard and shall be in accordance with the Constitution and this Title. The appellant shall be enrolled or allowed to relinquish his or her membership only if at least two-thirds (2/3) of the entire Tribal Council, excluding any vacant seats and Tribal Council members who are required to abstain in accordance with the laws of the Tribe, vote in favor of enrolling the appellant or allowing the appellant to relinquish enrollment. In the case of dis-enrollment, the appellant's enrollment shall be restored unless at least two-thirds (2/3) of the entire Tribal Council, excluding any vacant seats and Tribal Council members who are required to abstain in accordance with the laws of the Tribe, vote to dis-enroll the appellant.

3. The decision of the Tribal Council on an appeal filed under this Title shall be final and not subject to appeal, review, challenge, or other action in any court or tribunal, including the Tribal Court, and no court or tribunal, including the Tribal Court, shall have any subject matter jurisdiction over any action involving the determination of a member's enrollment in the Tribe or a decision of the Tribal Council regarding the same.

4. After the Tribal Council makes a decision on an appeal, the Department shall provide notice to the appellant of the Tribal

Council's decision and take any necessary action to implement the decision of the Tribal Council.

## **CHAPTER 8 HONORARY MEMBERSHIP**

### **Section 10-8-1. Generally.**

1. In accordance with Article II, Section 3 of the Constitution, the Tribal Council shall establish an honorary roster for persons adopted by the Tribe who do not meet the requirements for enrollment in the Tribe.

2. Notwithstanding anything to the contrary in this Chapter, honorary membership shall not permit the honorary member to:

a. Be eligible, have the right or be entitled to vote in elections of the Tribe;

b. Hold office in the Tribe where membership in the Tribe is a requirement of such office;

c. Otherwise exercise the rights or receive the benefits of an enrolled member of the Tribe; or

d. Otherwise be considered an enrolled member of the Tribe for any purpose.

**Section 10-8-2. Purpose.** The purpose of honorary membership is to recognize certain individuals who have voluntarily committed themselves to the overall development and advancement of the Tribe and its members and who have maintained strong social ties with the Tribe. Honorary members are recognized for their unselfish giving of friendship and assistance to the Tribe and its members.

### **Section 10-8-3. Eligibility.**

1. To be eligible for honorary membership, an individual must have contributed to the social, cultural, educational, and/or economic well-being of the Tribe in at least two (2) of the following ways:

a. Contributions towards the restoration of the Tribe's relationship with the United States and its status as a federally recognized Indian tribe;

b. Contributions towards the cultural preservation of the Tribe;

c. Financial and economic contributions to the Tribe;

d. Contributions which have increased the social, economic, educational, or cultural well-being of the youth of the Tribe;

e. Contributions towards the federal, state or legal rights or advocacies of the Tribe;

f. Being the spouse or close relative of a member of the Tribe; or

g. Any other act or acts that have contributed to the development and cultural preservation of the Tribe and its members.

2. Notwithstanding the provisions of this Section, an individual may be granted honorary membership based on only one of the manners of contribution provided in this Section, other than being the spouse or relative of a member, if the individual's contribution in that area has been extensive.

3. For purposes of honorary membership, contributions include, but are not limited to, financial contributions.

4. No person has a right or entitlement to honorary membership in the Tribe pursuant to this Chapter, regardless of whether the person meets the requirements and considerations set forth in this Chapter. Membership pursuant to this Chapter is at the absolute and exclusive discretion of the Tribal Council.

#### **Section 10-8-4. Application.**

1. Any member of the Tribe may nominate an individual for honorary membership by filing an application with the Secretary of the Tribal Council on the form prescribed by the Department in accordance with this Title.

2. The member shall submit, at a minimum, the following information:

a. Name and address of the nominated individual;

b. Date and place of birth of the nominated individual;

c. Name, address, and relationship of the member making the application;

d. Whether the nominated individual is eligible for enrollment in the Tribe;

e. Whether the nominated individual possesses any Ponca blood; and

f. The contributions which make the nominated individual eligible for honorary membership under this Chapter.

3. Each application shall be accompanied by adequate documentation demonstrating eligibility for honorary membership, including, but not be limited to:

a. Narrative statements or other documentation of the nominated individual's contribution to the Tribe as set forth in this Section;

b. If eligibility is based on marriage or relationship to a member, documents of such marriage or relationship, such as current and historic tribal membership rolls; census records; records of birth, death, marriage, and divorce; records relating to the ownership, possession, transfer and status of real property; school, church, and court records; records relating to military service; newspaper and other publications; diaries; correspondence; scrapbooks; and photographs and notations thereon; and

c. Any other evidence which the member believes may support the nominated individual's eligibility for honorary membership set forth in this Chapter.

#### **Section 10-8-5. Adoption of Honorary Member.**

1. Adoption for honorary membership in the Tribe shall be by resolution adopted by the Tribal Council in accordance with the laws of the Tribe.

2. Upon receipt of an application for honorary membership, the Secretary of the Tribal Council, or his or her designee, shall

have the application placed on the agenda of the next available meeting of the Tribal Council.

3. Upon an application being placed on the agenda of a Tribal Council meeting, the Tribal Council shall review the application and all documentation submitted.

4. After review, the Tribal Council may:

a. Adopt a resolution adopting the individual subject of the application as an honorary member;

b. Reject the application for honorary membership; or

c. Return the application to the member who submitted it with instructions for the member to provide any additional information or documentation the Tribal Council may require.

**Section 10-8-6. Notice of Adoption.** Upon the Tribal Council completing its review and consideration of the application, the Secretary of the Tribal Council, or his or her designee, shall provide notice to the member who submitted the application in writing. The notice shall:

1. Inform the member that the Tribal Council has reviewed the member's nomination of an individual for honorary membership;

2. If the Tribal Council returns the application to the member for further information or documentation, inform the member of the information or documentation the Tribal Council desires to consider the application;

3. If the Tribal Council adopts a resolution to adopt the individual as an honorary member in the Tribe, include a copy of the resolution adopting the honorary member and inform the applicant and the individual adopted:

a. That the Tribal Council has adopted the individual as an honorary member in the Tribe;

b. That the individual has been added to the honorary roster; and

c. Of the honorary member's roster number from the honorary roster; and

4. If the Tribal Council denies the application for honorary membership, inform the applicant that the Tribal Council has denied the application for honorary membership in the Tribe.

**Section 10-8-7. Honorary Roster.**

1. The Secretary of the Tribal Council, or his or her designee, shall be responsible for maintaining the honorary roster of persons adopted by the Tribe in accordance with this Chapter.

2. The honorary roster shall contain, for each person listed, a roster number, name, address, sex, date of birth, and date of adoption.

3. Upon adoption a resolution adopting an individual as an honorary member, the Secretary of the Tribal Council, or his or her designee, shall immediately add the individual to the honorary roster.

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