

**POKAGON BAND OF POTAWATOMI INDIANS
ENROLLMENT CODE**

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Section 1. Authority.

The Tribal Council enacts this Code pursuant to the express grant of authority enumerated in Article V, Section 3, and Article IX, Subsections 1 (a), 1 (c), and 1 (d), and Subsections 2 (a) and 2 (i) of the Constitution and the inherent authority of the Pokagon Band, as a sovereign nation, to promote and protect the health, safety, and general welfare of the Pokagon Band.

Section 2. Purpose.

The purpose of this Code is to provide fair and reasonable laws and procedures to all applicants and Citizens for enrollment into, disenrollment from, and relinquishment from the Band.

Section 3. Definitions.

As used in the Code:

- A. “Adopted by a Non-Pokagon Family” means and requires all of the following:
 - (i) all of the person’s biological parents who are Citizens or meet the criteria for Citizenship provided in Subsection 4.A. of this Code either relinquished or had their parental rights terminated with regard to such person while such person was a Minor; and
 - (ii) upon entry of the final decree of Adoption or the order granting Adoption, no one with parental rights to such person is a Citizen or meets the criteria for Citizenship provided in Subsection 4.A. of this Code.
- B. “Adoption” means the action of a person legally adopting a child where the biological parents of the child no longer have parental rights to the child. It does not refer to adult Potawatomi Indians adopted into the citizenship nor to honorary membership into the Band.
- C. “Affected Citizen” means any Citizen who the Enrollment Committee intends to recommend for disenrollment under Subsection 10.B. of this Code or who is subject to a challenge to Citizenship eligibility under Subsection 10.C. of this Code.
- D. “Band” or “Pokagon Band” means the Pokagon Band of Potawatomi Indians.
- E. “Challenger” means any Citizen who files with the Enrollment Committee a challenge to Citizenship eligibility under Subsection 10.C. of this Code.
- F. “Citizen” means a person who meets all requirements for enrollment as a member of the Pokagon Band, as set forth in Article V of the Constitution and Section 4 of this Code, subject to all limitations and procedural requirements stated therein (including, without limitation, completion of the enrollment process outlined in

this Code). The term “Citizen” shall have the same meaning as the term “member” as used in the Constitution, this Code, and the other enacted laws of the Band.

- G. “Citizenship” means the status of being a Citizen and all those rights to which a Citizen is entitled under the Constitution. The term “Citizenship” shall have the same meaning as the term “membership” as used in the Constitution, this Code, and the other enacted laws of the Band.
- H. “Code” means this "Pokagon Band Enrollment Code".
- I. “Collateral Relative” means any blood relative who is not a person’s Lineal Ancestor, such as brothers, sisters, aunts, uncles, etc.
- J. “Committee Member” means a member of the Enrollment Committee.
- K. “Constitution” means the Constitution of the Band.
- L. “Current Roll” means the up-to-date record of living Citizens maintained by the Enrollment Committee.
- M. “Designated Laboratory” means one or more laboratories selected by the Enrollment Committee to perform all DNA Tests required by this Code, which shall be accredited by:
 - (i) The American Association of Blood Banks, or a successor to its functions; or
 - (ii) An accrediting body designated by the Secretary of Health and Human Services.
- N. “Disinterested Third Person” means a non-relative who has no interest in, either for or against, a pending enrollment matter.
- O. “DNA” means deoxyribonucleic acid, which is the nucleic acid that carries the genetic information in a cell.
- P. “DNA Test” means a medical test that compares an applicant’s DNA to one or more other persons to determine whether Probability of Lineage exists.
- Q. “Enrollment Committee” means the committee appointed in accordance with Article V, Subsection 3(a) of the Constitution and Section 5 of this Code.
- R. “Enrollment Office” means the Pokagon Band Enrollment Office.

- S. “Freedom of Information Act” means the Freedom of Information Act of the Pokagon Band.
- T. “Genetic Reconstruction Testing” means DNA Tests involving the applicant and multiple Citizens, which may include Collateral Relatives.
- U. “Grand Parentage Testing” means DNA Tests involving the applicant and both biological parents of the parent (i.e. the applicant’s grandparents) who is a Lineal Ancestor or through whom the applicant claims lineage to a Lineal Ancestor.
- V. “Lineal Ancestor” means an ancestor, living or deceased, who:
 - (i) is related to an applicant by direct ascent, namely the applicant’s parent, grandparent, etc. (excluding any adopted parents or grandparents, etc.); and
 - (ii) satisfies the criteria of Article V, Subsection 2(a) of the Constitution, as set forth in Subsection 4.A. of this Code.
- W. “Minor” refers to a person under eighteen (18) years of age.
- X. “Parentage Testing” means a DNA Test involving the applicant and the applicant’s biological parent who is a Lineal Ancestor or through whom the applicant claims lineage to a Lineal Ancestor.
- Y. “Paternity Proceeding Act” means the Pokagon Paternity Proceeding Act.
- Z. “Probability of Lineage” means the following:
 - (i) For Parentage Testing, at least ninety-nine percent (99%) statistical probability that the applicant is a lineal descendent of a Lineal Ancestor;
 - (ii) For Grand-Parentage Testing, at least ninety-nine percent (99%) statistical probability that the applicant is a lineal descendent of a Lineal Ancestor; and
 - (iii) For Genetic Reconstruction Testing, at least ninety percent (90%) statistical probability that the applicant is a lineal descendent of a Lineal Ancestor.
- AA. “Tribal Council” means the governing body of the Band under Article IX of the Constitution.
- BB. “Unavailable” means:

- (i) The identity or whereabouts of a person is unknown and cannot be determined, as established by an affidavit from the applicant or other person with personal knowledge;
- (ii) The person is uncooperative or refuses to consent to a DNA Test, as established by an affidavit from the applicant or other person with personal knowledge;
- (iii) The person is incarcerated, as established by an affidavit from the applicant or other person with personal knowledge; or
- (iv) The person is deceased, as established in accordance with Subsection 8.C.(i)(c) below.

Section 4. Citizens.

- A. Subject to the conditions set forth in Subsection 4.B. below, every person who meets one of the following criteria shall be eligible for Citizenship.
 - (i) His or her name appears on the Cadman Roll of 1895 or the Shelby Roll of 1896; or
 - (ii) The name of any of his or her Lineal Ancestors appears on the Cadman Roll of 1895 or the Shelby Roll of 1896; or
 - (iii) He or she, or any Lineal Ancestor, is identified as a Pokagon Band member on any other payment roll, census, or record determined to be reliable, made prior to 1900 for the Pokagon Band by officials or agents of the Department of the Interior, the Bureau of Indian Affairs or their predecessor agencies, or by the governing body of the Pokagon Band; or
 - (iv) He or she, or any Lineal Ancestor, is identified as a Pokagon Band member on the May 2, 1996 Base Roll of the Pokagon Band.
- B. Any person that fails to complete all requirements of the enrollment process under Pokagon Band law prior to his or her twenty-first (21st) birthday shall be ineligible for Citizenship, *provided* that this Subsection shall not apply to any person that completes all such enrollment requirements prior to October 31, 2010 or persons that were legally Adopted by a Non-Pokagon Family.
- C. Any child of Pokagon Band descent who is or was legally Adopted by a Non-Pokagon Family shall be eligible for Citizenship, notwithstanding such Adoption.
- D. Dual enrollment is prohibited.

- (i) No person shall be eligible to be a Citizen if that person is currently enrolled in another Indian tribe, band or group recognized by the United States or Canadian government. The prohibition against dual enrollment shall not extend to any person who formally and irrevocably relinquishes membership in such other tribe, band or group at any time before the Pokagon Band renders a final decision on such person's application for Citizenship.
 - (ii) Any Citizen who becomes an enrolled member of another Indian tribe, band or group recognized by the United States or Canadian government shall thereby automatically forfeit Citizenship and all Citizenship rights and benefits in the Pokagon Band and shall be disenrolled.
 - (iii) A Citizen's Citizenship rights will not be affected by the Citizen's enrollment on a descendency payment roll of another tribe, band or group recognized by the United States or Canadian government, as long as such enrollment does not grant the Citizen membership rights in the other tribe, band or group.
- E. Article V, Subsection 2(a) of the Constitution, as set forth in Subsection 4.A. of this Code, states the criteria to be eligible for Citizenship. Under Article V, Subsection 2(c) and Section 3 of the Constitution, to become a Citizen, an eligible person must complete the enrollment process stated in the Code, which includes the requirement under Subsection 6.B.(iv) that "[t]he application must be accompanied by a certified state or county copy of the applicant's birth certificate and, as needed, other documentary evidence . . ." Subsection 6.C. below is a component of the enrollment process and does not amend the eligibility for Citizenship. Therefore, a Child who is otherwise eligible for Citizenship, but has not yet completed the enrollment process, including that set forth in Subsection 6.C. below and who is the biological Child of a Citizen, may still be an "Indian Child" under Section 1903(4)(b) of the Indian Child Welfare Act ("ICWA"), 25 U.S.C. 1901, *et. seq.* for purposes of ICWA.

Section 5. Administration.

- A. To aid in developing and maintaining fair enrollment procedures, the Tribal Council shall appoint an Enrollment Committee composed of four (4) to six (6) Citizens, one (1) of whom shall be the Tribal Council Chairperson, or a Council member designated by the Tribal Council Chairperson, who shall serve as a non-voting ex-officio member whose presence at any Enrollment Committee meeting shall not be counted in meeting a quorum requirement. The Enrollment Office staff shall not be eligible to serve on the Enrollment Committee. The process for making appointments to the Enrollment Committee shall comply with the requirements regarding committee appointments set forth in the Tribal Council Procedures Act.

- (i) A Tribal Council member shall not serve as Chairperson of the Enrollment Committee. The Committee Members shall choose a Chairperson and Secretary from among themselves.
 - (ii) The terms of appointment shall be two (2) years each and staggered, but any term of a Tribal Council member serving as a non-voting ex-officio member shall be coterminous with his or her term of office on the Tribal Council.
 - (iii) To maintain a staggered system, the initial appointments shall be:
 - (a) The Chairperson shall serve for two (2) years, subject to the limitation stated above in (ii);
 - (b) One member shall serve for two (2) years; and
 - (c) The remaining members shall each serve a one (1) year term.
 - (iv) A Committee Member may be reappointed.
 - (v) Any Committee Member may voluntarily resign at any time upon written, signed, and dated notice to the Committee Chairperson or Committee Secretary.
 - (vi) All Committee Members shall serve at the pleasure of the Tribal Council and may be removed at any time with or without cause or notice.
 - (vii) In filling a vacancy, the Tribal Council shall appoint a successor for the length of the unexpired term.
 - (viii) A quorum of the Enrollment Committee shall be one-half of all voting Committee Members plus one (1).
- B. The Enrollment Committee shall maintain the Current Roll.
 - C. The Enrollment Committee shall make recommendations to the Tribal Council on enrollment policies, laws, and Citizenship approvals, and it shall aid the Enrollment Office staff in the administration of Band enrollment laws, policies, and procedures.
 - D. The Enrollment Committee shall have the authority to issue any guidelines it deems necessary for the carrying out of the policies and procedures set forth in this Code.
 - E. All Enrollment Office staff members must be a Citizen.

Section 6. Enrollment Application.

A. Filing.

- (i) All persons who request Citizenship must file an enrollment application. Applications for minors or legal incompetents may be filed by the applicant's parents, guardians, or other sponsors such as social workers.
- (ii) All enrollment applications must be filed with an Enrollment Clerk or such other person as may be designated by the Enrollment Committee. An applicant may obtain an enrollment application from the Enrollment Office upon oral or written request.
- (iii) There is no deadline date established for filing enrollment applications, subject to Subsection 4.B. above. The enrollment eligibility and enrollment application filing date for enrollment to share in such distribution or other purposes will be specifically set forth by the Tribal Council.

B. Contents.

- (i) Each enrollment application must be completed in its entirety and must meet all requirements of this Code and contain sufficient personal information to properly determine the applicant's eligibility for enrollment. Applications must be completed on the forms provided by the Enrollment Office and include the following:
 - (a) All names by which the applicant is known;
 - (b) The address of the applicant;
 - (c) A Pokagon Band Family Tree showing the names of all Pokagon Band Lineal Ancestors whose names appear on any roll, census, or record identified in Section 4 of this Code;
 - (d) The affidavit of the Disinterested Third Person required under Subsection 6.B. (ii), as applicable;
 - (e) The name of the tribe(s) and degree(s) of Indian blood of any tribe(s) other than Pokagon Band;
 - (f) The signature of the applicant or sponsor; and
 - (g) The date of signature by the applicant or sponsor.

- (ii) If the applicant claims to be eligible for Citizenship and adopted out of the applicant's biological family through which the applicant claims lineage to a Lineal Ancestor, a Bureau of Indian Affairs staff-person or official, or another qualified Disinterested Third Person acceptable to the Enrollment Committee shall examine the records and swear as to whether or not the record shows the applicant is a child of a parent through whom the applicant claims lineage to a Lineal Ancestor. Subject to the requirements of this Code, the Bureau of Indian Affairs staff-person or Disinterested Third Person's affidavit shall act as authority for eligibility for enrollment instead of the biological parent's enrollment or identification number, as applicable.
- (iii) The application form shall notify the applicant of the requirement of DNA Testing under this Code, including, without limitation:
 - (a) The name(s) and location(s) of the Designated Laboratory for the collection of DNA samples; and
 - (b) That each Designated Laboratory will charge a fee for the various DNA Tests (including for the collection of DNA samples) and that all such fees are the responsibility of the applicant and will not be paid by the Band.
- (iv) The application must be accompanied by a certified state or county copy of the applicant's birth certificate and, as needed, other documentary evidence showing the name of the parent who is a Lineal Ancestor or through whom the applicant claims lineage to a Lineal Ancestor, except as provided under Subsection 6.B.(ii) of this Code. If the applicant requests that the certified state or county copy of the applicant's birth certificate be returned to the applicant, an Enrollment Office staff member shall reproduce said copy and attest that he or she made a reproduction of the certified copy.
- (v) If the application is not accompanied by a certified state or county copy of the applicant's birth certificate with the name of the parent who is the Lineal Ancestor or through who the applicant claims lineage to a Lineal Ancestor, paternity shall be proven pursuant to the requirements of the Paternity Proceeding Act or pursuant to the laws of another jurisdiction, provided that such other laws include standards and procedures are at least as stringent in those of the Paternity Proceeding Act.

C. **DNA Testing.**

- (i) Except as provided in Subsection 6.C.(ii) below, the applicant must cause the Designated Laboratory to submit directly to the Enrollment Office the results of a DNA Test (or DNA Tests, as applicable) establishing the

applicant's Probability of Lineage to a Lineal Ancestor, based on the following order of priority:

- (a) Parentage Testing;
 - (b) If Parentage Testing is not possible because the parent is Unavailable, then Grand Parentage Testing; or
 - (c) If Parentage Testing and Grand Parentage Testing are not possible because the parent and a grandparent are Unavailable, then Genetic Reconstruction Testing.
- (ii) Notwithstanding Subsection 6.C.(i) above, if an applicant was Adopted by a Non-Pokagon Family and the applicant establishes that Parentage Testing and Grand Parentage Testing are not possible because the parent and a grandparent are Unavailable, then DNA Testing under this Code shall not be required for the applicant.
 - (iii) The applicant shall be responsible for all fees associated with any DNA Test.
 - (iv) DNA samples shall be collected at the Designated Laboratory, but with the approval of the Enrollment Committee and the Band's Department of Health Services, DNA samples may be collected at one or more facilities of the Band's Department of Health Services in accordance with all procedures, standards and requirements established by the Designated Laboratory, including, without limitation, those relating to chain of custody.
 - (v) The Designated Laboratory shall send all DNA Test results directly to the Enrollment Office.
 - (vi) The DNA Test results: (a) shall be in a record which is signed under penalty of perjury by an authorized representative of the Designated Laboratory; and (b) which are provided to the Pokagon Band shall remain the property of the Pokagon Band.

D. **Reapplication.**

- (i) Upon being denied Citizenship under the provisions of this Code, a person may reapply for Citizenship only if the person submits relevant new material(s) to be added to the person's previously rejected application.
- (ii) In submitting the new relevant material(s), the applicant must:
 - (a) describe the new material(s) submitted; and

- (b) explain why the applicant thinks the new material(s) is relevant to establishing the applicant's Citizenship. The applicant may submit this explanation in writing or may meet with an Enrollment Office staff member to explain the new material(s) submitted.
- (iii) Once an applicant has submitted new relevant material(s), the application shall be processed as described in Section 7 of this Code.
- (iv) If an applicant does not follow the procedure for submitting reapplication materials (e.g., simply submits the previously rejected application without submitting any new relevant material(s) with the reapplication), then the Enrollment Committee shall reject the application.

Section 7. Processing Enrollment Application.

A. Enrollment Office Staff.

- (i) All applications shall be received by an Enrollment Clerk or other Enrollment Office staff designated to receive applications. The Enrollment Office staff shall then:
 - (a) Stamp the application form with the date on which it is received, and send acknowledgment of receipt to the applicant;
 - (b) Make a folder for the application and supporting documents;
 - (c) Make sure the application is complete and, if not, notify the applicant of what is required;
 - (d) If applicant claims any other Indian blood or enrollment in another tribe, verify these claims as completely as possible. If the Enrollment Office is unable to verify or if the Enrollment Office calculates a different degree of other Indian blood, it shall provide written notice of such to the applicant prior to submission of the application to the Enrollment Committee and shall provide the applicant a minimum of ten (10) business days to provide any documents supporting the applicant's calculation. The Enrollment Office shall, after reviewing any subsequent documents provided by the deadline, provide written notice to the applicant of the Enrollment Office's calculation and shall include in its submission to the Enrollment Committee, the Enrollment Office's final calculation of the applicant's degree of any other Indian blood;
 - (e) If the Enrollment Office calculates a different degree of Pokagon Band blood, it shall provide written notice of such to the applicant

prior to submission of the application to the Enrollment Committee and shall provide the applicant a minimum of ten (10) business days to provide any documents supporting the applicant's calculation. The Enrollment Office shall, after reviewing any subsequent documents provided by the deadline, provide written notice to the applicant of the Enrollment Office's calculation and shall include in its submission to the Enrollment Committee, the Enrollment Office's final calculation of the applicant's degree of any Pokagon Band blood;

- (f) Separate applications into two stacks:
 - (i) Applicants who meet requirements, and
 - (ii) Applicants who do not meet requirements or who do not have proper documentation;
 - (g) Prepare resolutions accepting and/or rejecting applications for consideration of the Enrollment Committee; and
 - (h) Provide the Enrollment Committee with the application, supporting documents, and the proposed Enrollment Committee resolution.
- (ii) The above actions shall be completed by the Enrollment Office within sixty (60) business days of its receipt of the application.

B. Enrollment Committee.

- (i) To process the application, the Enrollment Committee shall:
 - (a) Examine applications and documentation presented by Enrollment Office staff, but no Committee Member shall examine the files of applicants claiming lineage through the Committee Member or the Committee Member's spouse, parents or grandparents.
 - (b) Determine accuracy and sufficiency of research, requiring additional action by staff if necessary;
 - (c) If applicant is officially enrolled in another Indian tribe, band, or group recognized by the United States or Canadian government, request that the applicant relinquish that enrollment;
 - (d) Recommend approval or rejection of application to Tribal Council; and

(e) Direct the Enrollment Office staff to record in applicant's file any Tribal Council decision concerning Citizenship status and notify applicant of the decision.

(ii) The above actions shall be completed by the Enrollment Committee within sixty (60) business days of its receipt of the application material from the Enrollment Office staff.

C. **Tribal Council.**

(i) The Tribal Council shall then act to:

(a) Accept or reject applicants based solely on the merits of the Enrollment Committee's recommendations; and

(b) Document decisions with resolutions.

(ii) The above action shall be completed by the Tribal Council within sixty (60) business days of its receipt of the application from the Enrollment Committee.

D. **Notice.**

The Enrollment Office shall, within fourteen (14) calendar days of the decision, provide notice by certified mail, return receipt requested, to all applicants of any final decision on their enrollment applications. If the decision is to deny the enrollment application, the notice shall identify and explain the specific reasons on which the decision was based.

Section 8. Records.

A. **Individual Folder.**

An individual folder shall be established for each Citizen. This folder shall contain the following items:

(i) Application and supporting documentation, as outlined in Subsection 6.B. of this Code;

(ii) Correspondence;

(iii) Copy of Resolution(s) affecting enrollment; and

(iii) All other documentation on the person pertinent to Citizenship, including, without limitation, DNA Test results.

B. Access.

- (i) The Current Role, and any portion thereof, shall be exempt from disclosure under § 2.01 of the Freedom of Information Act but may be reviewed by any Citizen at the Enrollment Office during regular business hours.
- (ii) Neither the Current Role, nor any portion thereof, however, may be copied, photographed and/or distributed to any person or organization except upon permission of the Tribal Council by appropriate resolution or ordinance.
- (iii) Documents and information in individual folders shall be exempt from disclosure under § 2.01 of the Freedom of Information Act. Notwithstanding the foregoing, the documents and information in an individual folder shall:
 - (a) be available for review or copying at the Enrollment Office during regular business hours by the Citizen who is the subject of the file, the Citizen's duly authorized agent or representative or other person authorized in writing by the Citizen and, when such examination is necessary in considering enrollment decisions, the Enrollment Office staff, Committee Members, Tribal Council Members, Tribal Court staff, and the Bureau of Indian Affairs; and
 - (b) be available for review at the Enrollment Office during regular business hours by the Band's Director of the Department of Social Services, subject to the following: (1) review shall be limited to the individual folder of a minor Citizen and of such minor Citizen's biological parent(s); (2) the minor Citizen has been or will imminently be removed from his or her parent(s) or guardian(s), in connection with a child protection matter, and is in need of placement; (3) such review is necessary to determine whether documents in such folders contain information which may lead to the identification of a relative or relatives of the minor Citizen in order to assist with such placement of the minor Citizen; and (4) the Director of the Department of Social Services provides his or her request for review in writing to the Enrollment Office.
- (iv) Documents and information in any file concerning an adopted person shall be exempt from disclosure under § 2.01 of the Freedom of Information Act, shall not be disclosed to any person without a valid order from a court of competent jurisdiction, and shall be contained in locked file cabinets and protected by adequate safeguards to protect the confidentiality of the records.

- (v) Except as provided in this Section, documents and information in individual folders shall not be removed from the Enrollment Office for any reason, including without limitation by photocopy, transfer to computer disks or other electronic media, or by electronic transmittal such as facsimile (fax) machines or electronic mail. Documents or information, in whole or in part, in individual folders may only be removed from the Enrollment Office by authority of a resolution or enactment of law by the Tribal Council.
 - (a) The resolution shall state the specific reason for removal of the documents or information, the manner by which removal may be accomplished, the date the documents or information may be removed and the date it shall be returned.
 - (b) Any Pokagon Band employee that unlawfully removes documents or information from an individual enrollment folder shall be subject to disciplinary action, including without limitation, termination of employment and may be subject to criminal or civil penalties.
- (vi) Upon request, the Enrollment Office staff may confirm whether a person is a Citizen. If such request is from another Indian tribe, band, or group recognized by the United States or Canadian government, then the Enrollment Office staff may also confirm, share, or disclose blood quantum information.
- (vii) The Enrollment Office may provide the Current Roll, or portions thereof, to Band departments who need such information in order to administer Band programs, provided that such Band departments shall maintain the Current Roll, and any portions thereof, as confidential, and shall use such information solely for such purposes.
- (viii) The Tribal Council shall use its discretion in using and/or releasing documents or information from the Current Roll for the benefit of Citizens or Band programs.

C. **Updating.**

- (i) Upon receipt of the required documentation listed below or the approval of the Enrollment Committee under Subsection 8.C.ii., the Enrollment Office staff is authorized to update the Current Roll and/or information in individual folders based on a name change, address change, or death, as applicable. Except as provided in Subsection 8.C.ii, the following documentation is required for such actions to be taken:
 - (a) Name Change- Certified copy of Marriage license

Certified copy of Divorce decree
Certified copy of Court order
changing name

- (b) Address Change-
- (1) A move to the Band's Service Area:
Written statement or address form provided by the Enrollment Office that is signed by the Citizen or, if the Citizen is less than eighteen (18) years of age, the Citizen's parent or duly authorized guardian, a photo I.D. with a current address and a second proof of residence. Addresses for all three (3) documents must match. All correspondence from the Band will be mailed to the last address the Citizen supplied to the Enrollment Office.
- (2) A move within the Service Area; a move to a Non-Service Area location; or any temporary relocation for active military service: Written statement or address form provided by the Enrollment Office that is signed by the Citizen or, if the Citizen is less than eighteen (18) years of age, the Citizen's parent or duly authorized guardian.

- (c) Death-
- Death Certificate
Bureau of Indian Affairs records
Mortuary records
Hospital records
Written signed statement from next of kin
Written signed statement from someone who attended funeral and can provide date of death
Social Security Death Index

- (ii) Any change to the Current Roll or information within an individual folder that is a name change, address change, or death, for which none of the above required documentation is available must be approved by the Enrollment Committee by resolution, which shall state the reason for the

change without the required documentation and shall be placed in the individual's folder.

- (iii) Citizens shall notify the Enrollment Office within sixty (60) calendar days of the Citizen's name or address change. Next of kin or other appropriate persons are encouraged to notify the Enrollment Office as soon as possible in the event of the death of a Citizen.
- (iv) Any other change to information within an individual folder that is not expressly authorized in Subsection 8.C.(i), or (ii) shall not occur unless:
 - (a) the Enrollment Office provides written notice of the proposed change to the Citizen with a minimum of ten (10) business days for the Citizen to provide written comment on the proposed change; and
 - (b) the Enrollment Committee and the Tribal Council each approve the proposed change by resolution.

D. Copying Fees.

The Enrollment Committee may establish reasonable fees for the copying of Band enrollment records.

Section 9. Computing Degree of Pokagon Band Blood.

All persons, including Lineal Ancestors, whose names appear on the Cadman Roll of 1895, the Shelby Roll of 1896, or any other payment roll, census, or record made prior to 1900 for the Pokagon Band by officials or agents of the Department of the Interior, the Bureau of Indian Affairs or their predecessor agencies, or by the governing body of the Pokagon Band, shall be conclusively presumed to be full blooded Pokagon Potawatomi Indians.

Section 10. Loss of Citizenship.

A. Relinquishment.

- (i) Adult Citizens.
 - (a) *Voluntary Relinquishment.* Any adult Citizen may voluntarily relinquish Citizenship. To be effective, a relinquishment must be in writing on a form provided by the Enrollment Office and the Citizen's signature must be notarized.
 - (b) *Conditional Relinquishment.* Any Citizen wishing to voluntarily relinquish Citizenship in anticipation of being granted membership in another Indian tribe, band, or group recognized by the United States or Canadian government shall be encouraged to do so on a conditional relinquishment form approved by the Enrollment Office.

- (1) The Citizen's name will not be removed from the Current Roll until documentation establishing that the Citizen has been granted membership in the other Indian tribe, band or group recognized by the United States or Canadian Government is received by the Enrollment Office; and
 - (2) The conditional relinquishment will be deemed effective as of the date such Citizen's enrollment as a member of the other Indian tribe, band or group recognized by the United States or Canadian Government becomes effective and not when the Enrollment Office receives notice of such enrollment.
- (c) *Unconditional Relinquishment.* A Citizen that wishes to relinquish Citizenship without conditioning such relinquishment on the Citizen being granted membership in another Indian tribe, band, or group recognized by the United States or Canadian government, shall file with the Enrollment Office an unconditional relinquishment form approved by the Enrollment Office. Such unconditional relinquishment will be deemed effective as of the date indicated on the relinquishment form or if no date is indicated, then upon receipt by the Enrollment Office.
- (ii) Minor Citizens.
 - (a) The Citizenship of any Minor may be relinquished by the Citizen's parent or guardian.
 - (b) Relinquishment must be in writing, and the signature must be notarized.
 - (c) A relinquishment form submitted on behalf of a Minor Citizen shall be accompanied by proof acceptable to the Enrollment Office that the individual who signed the form has legal custody or guardianship of the Minor Citizen.
 - (d) Minors whose Citizenship was relinquished by a parent or legal guardian may reapply for Citizenship at any time after reaching eighteen (18) years of age, subject to the requirements of this Code, including Subsection 4.B.
 - (iii) Final.
 - (a) Citizenship relinquishment is final.

- (b) All Citizenship rights and privileges shall cease immediately upon the date relinquishment becomes effective, as indicated above in this Section.
- (c) Except as provided in Subsection 10.A.(ii)(d), a person who relinquishes Citizenship shall not be reinstated to Citizenship and may not reapply for Citizenship.
- (iv) Notice.

The Enrollment Office shall provide prompt notice, by certified mail, return receipt requested, to all Citizens who relinquished Citizenship of the acceptance of such relinquishment and the date such relinquishment became effective.

B. Disenrollment.

- (i) Grounds.

Grounds for disenrollment are limited to Citizenship decisions based on:

- (a) information later determined to be false by clear and convincing evidence;
 - (b) a clear error of law such that disenrollment is necessary in order to bring the Citizenship rolls into conformance with the applicable legal standards for Citizenship; or
 - (c) a violation of the prohibition against dual enrollment.
- (ii) Enrollment Office Initiated.
 - (a) If the Enrollment Office, in the normal course of performing its official duties under this Code, discovers or obtains information that the Enrollment Supervisor reasonably believes establishes grounds for disenrollment of a Citizen, then the Enrollment Supervisor shall present such evidence in writing along with all supporting documentation to the Enrollment Committee.
 - (b) If the Enrollment Committee considers such evidence to be reliable and adequate as grounds for opening an inquiry into the Affected Citizen's eligibility for Citizenship, then it shall schedule an informal meeting with the Affected Citizen to inquire into the Affected Citizen's eligibility for Citizenship. The Enrollment Supervisor shall attend such informal meeting. At least fourteen (14) calendar days before such informal meeting, the Enrollment

Office shall provide the Affected Citizen with notice of the date, time and location of the meeting, along with a copy of all such evidence. The notice shall inform the Affected Citizen of the right to appear at the informal meeting or file a written response and to be represented by legal counsel of the Affected Citizen's choice and at the Affected Citizen's sole cost.

- (c) The Enrollment Committee shall, within fourteen (14) calendar days of the informal meeting (and regardless of whether the Affected Citizen makes any appearance or files a written response), fully consider all relevant information presented at such meeting and determine, based on such relevant information, and subject to the standard of proof and burden of proof set forth in Subsection 10.B.(iv)(d), whether adequate grounds exist to commence a disenrollment proceeding against the Affected Citizen.
- (d) If the Enrollment Committee's decision is not to commence a disenrollment proceeding against the Affected Citizen, then the Enrollment Office shall, within fourteen (14) calendar days of such determination, provide the Affected Citizen with notice of the Enrollment Committee's decision, which shall identify and explain the specific reasons for the decision.
- (e) If the Enrollment Committee's decision is to commence a disenrollment proceeding against the Affected Citizen, then its decision shall include an identification and explanation of the specific reasons for the decision, and the Enrollment Committee shall proceed under Subsection 10.B.(iv) below.
- (f) This Subsection 10.B.(ii) shall not be used to circumvent Subsection 10.B.(iii) below, and therefore, any Citizen (other than Enrollment Office staff in the normal course of performing its official duties under this Code) who has information that the Citizen reasonably believes establishes grounds for disenrollment of a Citizen must follow the process set forth in Subsection 10.B.(iii) below.
- (g) The Enrollment Office shall not initiate an investigation as to whether grounds for disenrollment of a Citizen exist in the absence of discovering or obtaining information, in the normal course of performing its official duties under this Code, that the Enrollment Supervisor reasonably believes establishes grounds for disenrollment of a Citizen.

(iii) Citizen Initiated.

- (a) Any Citizen who has information that the Citizen reasonably believes establishes grounds for disenrollment of a Citizen shall present such evidence in writing along with all supporting documentation to the Enrollment Committee.
 - (b) If the Enrollment Committee considers such evidence to be reliable and adequate as grounds for opening an inquiry into the Affected Citizen's eligibility for Citizenship, then it shall schedule an informal meeting with the Challenger and Affected Citizen to inquire into the Affected Citizen's eligibility for Citizenship. At least fourteen (14) calendar days before such informal meeting, the Enrollment Office shall provide the Challenger and Affected Citizen with notice of the date, time and location of the meeting, along with a copy of all such evidence. The notice shall inform the Affected Citizen of the right to appear at the informal meeting or file a written response and to be represented by legal counsel of the Affected Citizen's choice and at the Affected Citizen's sole cost.
 - (c) The Enrollment Committee shall, within fourteen (14) calendar days of the meeting (and regardless of whether the Affected Citizen makes any appearance or files a written response), fully consider all relevant information presented at such meeting and determine, based on such relevant information, and subject to the standard of proof and burden of proof set forth in Subsection 10.B.(iv)(d), whether adequate grounds exist to commence a disenrollment proceeding against the Affected Citizen.
 - (d) If the Enrollment Committee's decision is not to commence a disenrollment proceeding against the Affected Citizen, then the Enrollment Office shall, within fourteen (14) calendar days of such determination, provide the Affected Citizen with notice of the Enrollment Committee's decision, which shall identify and explain the specific reasons for the decision.
 - (e) If the Enrollment Committee's decision is to commence a disenrollment proceeding against the Affected Citizen, then its decision shall include an identification and explanation of the specific reasons for the decision, and the Enrollment Committee shall proceed under Subsection 10.B.(iv) below.
- (iv) Hearing.
- (a) The Enrollment Committee shall notify the Affected Citizen of its intent to recommend disenrollment to Tribal Council, which shall

include an identification and explanation of the specific reasons on which the decision was based.

- (b) After such notice, the Enrollment Committee shall schedule a disenrollment hearing before Tribal Council. At least fourteen (14) calendar days before the hearing, the Tribal Council Secretary shall provide the Affected Citizen with notice of the date, time and location of the hearing, along with a copy of all such evidence. The notice shall also inform the Affected Citizen of the right to appear at the hearing or file a written response and to be represented by legal counsel of the Affected Citizen's choice and at the Affected Citizen's sole cost.
- (c) The purpose of the hearing shall be to review the law and evidence on which the disenrollment recommendation is based and to consider arguments regarding the law and the relevance and sufficiency of the evidence. The Tribal Council shall establish rules governing the conduct of the hearing.
- (d) Within fourteen (14) calendar days following the hearing (regardless of whether the Affected Citizen makes any appearance or response), the Tribal Council shall schedule a meeting to determine if the Citizen is to be disenrolled. The Tribal Council shall base its decision solely on the merits of the Enrollment Committee's recommendations and shall document its decision by resolution, which shall include findings of fact and conclusions of law. A decision to disenroll an Affected Citizen shall be supported by clear and convincing evidence that the Affected Citizen does not meet the eligibility standards for Citizenship. The Enrollment Committee shall bear the burden of proof.
- (e) The Tribal Council shall, within fourteen (14) calendar days of its decision, notify the Affected Citizen of the action taken by certified mail, return receipt requested. Without limitation, if the decision is to disenroll the Affected Citizen, then the notice shall inform the Affected Citizen of the right to appeal the decision to the Tribal Court. If the Affected Citizen was notified by publication and did not appear at the hearing or file a written response, notice of the disenrollment decision may be accomplished by publication in a monthly Band publication with a general distribution to the Citizenship.
- (f) Every disenrollment proceeding commenced shall conclude with a decision either that the Citizen is disenrolled or that the Citizen's eligibility for Citizenship is reaffirmed. No Citizen may be subjected to more than one disenrollment proceeding.

(v) Notice.

- (a) All notices which are required to be provided to the Challenger under this Subsection 10.B.(iii) shall be in writing delivered by first class U.S. mail to the Challenger's last known address.
- (b) All notices which are required to be provided to the Affected Citizen under this Section 10.B. shall be in writing delivered by either personal service or certified or registered mail, return receipt requested.
- (c) If notice on the Affected Citizen cannot reasonably be made by the methods set forth above (in that such efforts have not been successful), then the Enrollment Committee shall publish in a monthly Band publication, with a general distribution to the Citizens, a request asking the Affected Citizen to contact the Enrollment Committee. The Enrollment Committee shall publish such a request for at least two (2) consecutive months if it cannot reach the Affected Citizen.

(ix) Final.

- (a) A decision by the Tribal Council to disenroll a Citizen is final and effective upon adoption by the Tribal Council.
- (b) All Citizenship rights and privileges shall cease immediately upon the date the disenrollment decision becomes effective.
- (c) Any person who was disenrolled may not reapply for Citizenship, provided that, subject to the requirements of this Code, including without limitation, Subsection 4.B., a person who was disenrolled under Subsection 10.B.(i)(a) or (b), may reapply for Citizenship if the person submits with the application relevant new material(s). In submitting such material(s), the applicant must: (1) describe the new material(s); and (2) explain why the applicant thinks the new material(s) is relevant to establishing the applicant's Citizenship. The applicant may submit this explanation in writing or may meet with an Enrollment Office staff member to explain the new material(s) submitted. Once an applicant has submitted new relevant material(s), the application shall be processed as described in Section 7 of this Code. If an applicant does not follow the above procedure, then the Enrollment Committee shall reject the application.

Section 11. Citizenship Cards.

The Enrollment Office may issue Citizenship cards to Citizens. Such cards are the property of the Pokagon Band and must be relinquished to the Enrollment Office upon demand. Citizenship cards must also be relinquished in the event of a Citizen's relinquishment of Citizenship or disenrollment from the Pokagon Band. The Enrollment Committee may establish reasonable replacement fees for Citizenship cards.

- A. All Citizenship cards shall contain the Citizen's address.
- B. All Citizenship cards issued to a Citizen sixteen (16) years of age or older shall include a photograph of the Citizen.
- C. Except as otherwise provided in this Enrollment Code, a Citizenship card shall expire on the birthday of the person to whom the Citizenship card is issued in the tenth (10th) year following the date of the issuance of the Citizenship card. A Citizen holding a Citizenship card at any time within one-hundred eighty (180) calendar days before the expiration of his or her Citizenship card may make application for a new Citizenship Card as provided for in this Code.
- D. Any Citizenship card issued to a person who, at the time of issuance is less than seventeen and one-half (17 ½) years of age shall expire on the Citizen's eighteenth (18th) birthday.
- E. Citizenship cards contain an expiration date only to ensure the photo identification is updated periodically. A duly enrolled Citizen shall enjoy all rights and privileges entitled to all Citizens of the Pokagon Band whether or not the Citizen's Citizenship card is expired.

Section 12. Appeals.

A. Right.

Any person whose application for Citizenship has been denied or not acted upon, who has been disenrolled, or whose Citizenship has been forfeited shall have the right of appeal for declaratory relief to the Tribal Court. In all such actions filed with the Tribal Court, the person who exercises the right of appeal to the Tribal Court shall be a "Petitioner" and the party whose actions or failures to act are being appealed shall be the "Respondent". The Petitioner and the Respondent shall have the right to appellate review of an adverse Tribal Court decision by the Tribal Court of Appeals.

B. Timing.

An appeal authorized by Subsection 12.A. above must be filed within:

- (i) sixty (60) calendar days from the date that the person entitled to bring the appeal receives notice of the final enrollment decision or such notice is first published in a monthly Band publication, with a general distribution to the Citizens; and
- (ii) one-hundred and eighty (180) calendar days from the date that the person entitled to bring the appeal knows or should know that a right to appeal has arisen if formal notice is not provided and is required by this Code, if notice is not required by this Code, or if the appeal concerns a failure to perform a non-discretionary act required by law.

C. **Standards.**

- (i) If the Court concludes that the necessary facts for the Tribal Council's action, or failure to act, were not supported by reasonable evidence, or that the Council applied the Band's enrollment laws incorrectly, it shall so declare and return the matter to the Enrollment Committee for further consideration and a new recommendation to Tribal Council.
- (ii) The judiciary shall, except for compelling reasons, limit its review to the administrative record.
- (iii) The judiciary shall give deference to the reasonable interpretation and application of Band enrollment law by the decision-making bodies to which such responsibility is assigned by law.

Section 13. Enforcement.

A. **Criminal Violations.**

- (i) Any Indian person who intentionally violates this Code, willfully fails to comply with any provision of this Code, or willfully prevents another person from complying with any provision of this Code shall be guilty of a crime and shall be subject to a maximum fine of \$5,000 or one (1) year imprisonment, or both.
- (ii) Each day during which such violation continues shall constitute a separate violation of this Code.

B. **Civil Violations.**

- (i) Any person who intentionally violates the Enrollment Code, willfully fails to comply with any provision of the Enrollment Code, or willfully prevents another person from complying with any provision of the Enrollment Code shall be liable for a civil fine not to exceed \$5,000 and shall further be subject to an action to recover an amount equivalent to the

value of all payments, distributions, and benefits, of any kind that were obtained by fraud, misrepresentation, or other unlawful activity.

- (ii) Each day during which such violation continues shall constitute a separate violation of the Enrollment Code. All civil fines accruing under the Enrollment Code shall be cumulative, and a suit for the recovery of one fine shall not bar or affect the recovery of any other fine, judgment, penalty, forfeiture, or damages, nor bar the power of the Tribal Court to punish for contempt, nor bar any criminal prosecution.

Section 14. Amendments.

Tribal Council may amend this Code by an affirmative vote of at least eight (8) Tribal Council members at any duly called Tribal Council Meeting, but any amendment proposed to Tribal Council, other than amendments proposed by the Enrollment Committee, shall first be forwarded to the Enrollment Committee, and the Enrollment Committee shall have thirty (30) calendar days to present Tribal Council with a resolution supporting, opposing, or revising the proposed amendment. Unless otherwise provided by Band law, any amendment proposed by the Enrollment Committee or any Enrollment Committee resolution presented in accordance with this Section should be given deference, but is not binding upon Tribal Council, and does not limit the policy-making authority of Tribal Council.

LEGISLATIVE HISTORY

THE “ENROLLMENT ORDINANCE” WAS ENACTED ON MARCH 9, 1996 BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 96-03-09-18; ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 97-01-23-06, SECTION 6 WAS AMENDED TO INCLUDE SUBSECTION (D) ENTITLED “REAPPLICATION UPON DENIAL”; ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 97-01-23-07, SECTION 5 WAS AMENDED TO INCLUDE SUBSECTIONS A (iv) THROUGH A (viii); ON JANUARY 23, 1997, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 97-01-23-08, SECTION 6 WAS AMENDED TO INCLUDE SUBSECTION (D) ENTITLED “REAPPLICATION UPON DENIAL”, AND SUBSECTION 11.A WAS AMENDED BY INSERTING A NEW PARAGRAPH AS THE FIRST PARAGRAPH OF THE SECTION; ON DECEMBER 9, 2000, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 00-12-09-04, AMENDMENTS WERE ENACTED TO SUBSECTIONS 4(A)(i)&(ii), SUBSECTIONS 5(A)(i), (ii), (iii), (vi), SUBSECTIONS 6(C)(i) AND (ii), SUBSECTIONS 7(A)(ii), 7(B)(ii), 7(C)(ii), SUBSECTIONS 9(A)(i) THROUGH (vi), 9(B)(i)(a) AND (b), SUBSECTIONS 9(C)(i)(b) AND (c), SUBSECTION 9(D), SUBSECTIONS 11(B)(ii)(a), (b), and (c), SUBSECTIONS 11(B)(iii), (iv), AND (v), SUBSECTIONS 11(B)(v)(a) AND (b), SUBSECTION 11(B)(vi), AND SECTIONS 12, 13, AND 14; ON FEBRUARY 8, 2003, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 03-02-08-01, SUBSECTIONS 4.A (i) AND 4.A (ii) WERE AMENDED. RESOLUTION No. 04-11-13-02, SECTION 9(C)(I)(B) WAS AMENDED; ON JUNE 11, 2011, BY ADOPTION OF TRIBAL COUNCIL

RESOLUTION No. 11-06-11-02, THE TRIBAL COUNCIL ENACTED COMPREHENSIVE AMENDMENTS TO THE ENROLLMENT ORDINANCE, THEREAFTER TITLED “ENROLLMENT CODE”; AND ON NOVEMBER 16, 2011, AT A DULY CONVENED LEGISLATIVE SESSION, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION NO. 11-11-16-01, SUBSECTIONS 4.A AND 4.B WERE AMENDED TO CONFORM TO THE FIRST AMENDMENT TO THE MEMBERSHIP PROVISIONS IN ARTICLE V, SECTION 2 OF THE CONSTITUTION; ON AUGUST 26, 2013 BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 13-08-26-03, SECTION 3 WAS AMENDED TO INCLUDE A NEW SUBSECTION (B), SECTION 7 WAS AMENDED TO INCLUDE A NEW SUBSECTION 7(A)(i)(h), AND SECTION 8 WAS AMENDED TO INCLUDE A NEW SUBSECTION 8(B)(ii)(b); ON OCTOBER 12, 2019, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 19-10-12-03, SECTION 5 WAS AMENDED TO INCLUDE SUBSECTION 5.E.; ON DECEMBER 21, 2020, BY ADOPTION OF TRIBAL COUNCIL RESOLUTION No. 20-12-21-05, SUBSECTION 6.C. (AND OTHER SECTIONS) WERE AMENDED TO REQUIRE DNA TESTING, AND OTHER AMENDMENTS WERE MADE THROUGHOUT THE CODE.