

ENROLLMENT ORDINANCE
KLAMATH TRIBAL CODE
Title 1 Chapter 4

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4.01 Purpose. The purpose of this Ordinance is to provide for the development and maintenance of the Klamath Tribal membership roll and to provide an orderly method for considering enrollment applications and other actions associated with the maintenance of the Klamath Tribes membership roll, including but not limited to, forfeiture of enrollment, voluntary withdrawal, actions for removal and blood degree corrections.

4.02 Enrollment Committee. The Enrollment Committee shall be composed of six (6) Klamath tribal members who have attained the age of 40 appointed by the Tribal Chairman with the concurrence of the Tribal Council. Committee members shall serve a term of three (3) years from the date of appointment, except that committee members appointed to fill a mid-term vacancy shall serve for the remainder of the original term for that position. The Enrollment Committee shall work with the enrollment staff to establish and maintain the Klamath Tribal Roll. The Enrollment Committee shall review each application for enrollment and proposed actions for forfeiture of enrollment, voluntary withdrawal, removal and blood degree corrections and recommend to the Tribal Council either acceptance or rejection of the application.

4.03 Enrollment Staff. The enrollment staff shall maintain files with enrollment information and supporting documents for each application, review and evaluate all applications for enrollment and other associated requests or proposals for action, forward documentation to the Enrollment Committee, maintain the Klamath Tribal Roll, and do other duties as required.

4.04 Confidentiality. All enrollment documents are confidential and are open only to the applicant, enrollment staff, the Enrollment Committee, and Tribal Council unless release is authorized by the applicant or his or her legal guardian in writing, or as necessary to determine a matter that has been appealed. Release of enrollment documents or the information contained therein in violation of this confidentiality clause shall be grounds for termination of employment or grounds for removing an Enrollment Committee member or removal of a Tribal Council member.

4.05 Conflict of Interest. No Enrollment Committee member or Tribal Council member or enrollment staff shall make a recommendation on any enrollment application or other requested or proposed action involving a member of his or her immediate family. A member of the immediate family means a spouse, parent, grandparent, sibling, child, parent-in-law, sibling-in-law, child-in-law, and grandchild.

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4.06 Enrollment Requirements. To be eligible for enrollment in the Klamath Tribes a person shall:

- (a) be named on the official Klamath Final Roll of August 3, 1954; or
- (b) possess one-fourth (1/4) degree or more Klamath, Modoc, or Yahooskin Indian blood; and
- (c) not be enrolled in any State or other Federally recognized Indian Tribe.

4.07 Application for Enrollment. The enrollment staff shall develop and maintain an enrollment application form according to the requirements established herein.

4.08 Applicant. Applications for enrollment may be filed by any person who believes he or she meets the enrollment requirements. For persons who are minors, who are under other legal disability, or who are children of a member of the Armed Services stationed outside the continental U.S., applications for enrollment may be filed by the parent, next of kin, recognized guardian, the Tribes, or other person responsible for the applicant's care.

4.09 Supporting Documents. Every application for enrollment shall be accompanied by the following:

- (a) A family tree establishing the ancestry and parentage of the applicant by way of their family tree. The family tree shall include supporting documentation authenticating all information included in the family tree submission. The supporting documentation must establish the ancestry and parentage of the applicant.
- (b) The Enrollment Committee shall have the right to require any additional documentation necessary to verify all information submitted to the Committee.

4.10 Establishment of Paternity for Enrollment Purposes.

- (a) **Proof of Paternity.** The Enrollment Committee will generally accept one or more of the following as proof of paternity.
 - 1. The child's birth certificate with the father's name indicated and signed by the father;
 - 2. The alleged father was married to the natural mother and resided with her at the time of conception;
 - 3. Acknowledgment of paternity, signed by the mother and the father before a

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- notary;
4. Genetic testing by blood, buccal cells, human leukocyte antigen test, DNA tests or other scientific testing, made by a qualified physician, accredited laboratory, or hospital, where the percentage is a minimum of 99%;
 5. An order establishing paternity entered by the Klamath Tribal Court or an order establishing paternity entered by another court of proper jurisdiction.
- (b) **Additional Documentation.** If the Enrollment Committee has reason to believe that documents or information submitted in support of paternity are irregular or unreliable, in any way, the Committee may require the applicant to submit additional or alternative documentation or may require the applicant to establish paternity in the Klamath Tribal Court.

4.11 Burden of Proof. The burden of proving eligibility for enrollment shall be upon the applicant or the person making the application. The burden of proving an error in blood degree shall be upon the party requesting the correction. The burden of proof shall be by a preponderance of the evidence.

4.12 Acceptance or Rejection for Enrollment. When the application for enrollment or other request or proposed action is complete and has been reviewed by the enrollment staff and Enrollment Committee, the application or proposed action and the recommendation of the Enrollment Committee shall be presented to the Tribal Council monthly. The Tribal Council shall accept or reject an applicant for enrollment by resolution. More than one applicant may be accepted or rejected in each resolution.

4.13 Notice of Acceptance, Rejection, Forfeiture, Removal or Other Action. The enrollment staff shall notify the applicant in writing within 60 days of the Tribal Council's action accepting or rejecting the application for enrollment or other proposed action. If notice is of acceptance, it may be delivered in person or by regular mail. If the notice is of rejection or removal, it may be delivered in person or by certified mail, return receipt requested. If the notice is delivered in person, the enrollment staff shall note on the file copy the date notice was delivered and the signature of the person serving notice.

4.14 Appeals. Any person who filed an application for enrollment which was rejected, whose enrollment has been forfeited pursuant to Section 4.17, who has been removed from the membership

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roll, or who has had adverse action taken against him or her may request reconsideration of that decision. Request for reconsideration is made by filing a written petition with the Tribal Council within sixty (60) days of the date the notice of rejection or other adverse action was received. If notice was given by certified mail, the date of receipt shall be the date delivery was made or refused, or that addressee was not found. If notice was given in person, the date of receipt shall be the date indicated by the signature of the person delivering said notice.

The Tribal Council shall review the petition at its next regularly scheduled or at a special meeting, at which time the petitioner may present evidence in support of his or her application or position. The Tribal Council shall notify the petitioner of its decision on the reconsideration within sixty (60) days of such review. The Tribal Council shall make a determination that either the applicant has met the enrollment requirements specified in this Ordinance or that the applicant has not met the enrollment requirements specified in this Ordinance, or in the case of other actions taken, affirm or reverse such action. Tribal Council decision on a Request for Reconsideration shall be final as to all matters except denial of enrollment or removal. Tribal Council decisions denying enrollment, or for removal, may be appealed to the General Council.

If the petitioner wishes to further appeal to the General Council, he or she must request such appeal in writing delivered to the Tribal Council Secretary within thirty (30) days of receipt of the Tribal Council's final decision. The Tribal Council shall allocate time on the agenda for the appeal at the next regularly scheduled General Council meeting provided that there is sufficient time to comply with notice and posting requirements in accordance with the Constitution of the Klamath Tribes. At such General Council meeting, the applicant may present evidence of his or her eligibility for enrollment. The Tribal Council shall present to the General Council such evidence as it deems necessary in support of its decision. The General Council shall make a determination by majority vote that either the applicant has met the enrollment requirements specified in this Ordinance at Section 4.06 or that the applicant has not met the enrollment requirements specified at Section 4.06. The decision of the General Council shall be final.

Enrollment shall be effective as of the date of final determination as to any application.

4.15 Re-Application. Persons who have been denied enrollment may reapply for enrollment only if he or she has obtained verifiable information that he or she meets a specific matter of deficiency that was identified in the letter or notice of denial or removal.

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4.16 Blood Degree Corrections. The degree of tribal Indian blood shown on any roll may be increased upon written request filed directly by the affected individual or a lineal descendant of the directly affected individual. The written request shall be accompanied by evidence showing the blood degree error. This evidence may include but is not limited to Bureau of Indian Affairs' records, Klamath Indian Agency records, and blood degrees on other census or tribal rolls. The Enrollment Committee shall review and evaluate the blood degree correction request and the supporting evidence, and shall recommend for or against the correction to the Tribal Council. Notice and appeal procedures described in sections 4.13 and 4.14 shall apply.

4.17 Dual Enrollment. No person shall become a member of the Klamath Tribes who is a member of another federally recognized Indian Tribe. Any member of the Klamath Tribes who applies for and is accepted as a member of another tribe shall automatically forfeit enrollment in the Klamath Tribes. Notice and appeal procedures described in section 4.13 and 4.14 shall apply.

If one parent of an applicant for enrollment is a member of another tribe, the enrollment application must be accompanied by a certification from the enrollment office of that tribe, or from the BIA office having administrative jurisdiction over that tribe, stating that the applicant is not a member of that tribe.

4.18 Voluntary Withdrawal of Enrollment.

- (a) **Adult Tribal Member Request.** Any tribal member 18 years of age or older may file a written request to withdraw from enrollment in the Klamath Tribes. The withdrawal from enrollment shall not be effective until approved by the Tribal Council.
- (b) **Minor Tribal Member Request.** Written requests to withdraw from enrollment filed on behalf of a tribal member who is under 18 years of age shall be denied unless written evidence is submitted proving that the minor will be enrolled as a member of another federally recognized tribe. Requests to withdraw a minor tribal member from the membership roll may only be made by 1) the minor tribal member's parent who is enrolled with the Klamath Tribes, 2) the minor tribal member's legal guardian or custodian who is enrolled with the Klamath Tribes, 3) if the minor tribal member's parent who was enrolled with the Klamath Tribes is deceased, an immediate family member who is enrolled with the Klamath Tribes; or 4) if the minor tribal member has no parent, guardian or custodian or immediate family member who is enrolled with the

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Klamath Tribes, the Enrollment Committee may present the request for withdrawal.

- (c) Immediate family member means a spouse, parent, grandparent, sibling, child, parent-in-law, sibling-in-law, child-in-law, and grandchild.
- (d) Any person who has voluntarily withdrawn from enrollment in the Klamath Tribes may not reapply for enrollment for a period of one year.
- (e) The Tribal Council shall notify the Klamath Tribes Administration General Manager, Klamath Tribal Health and Family Services General Manager, and other departments or entities as determined appropriate, of persons who have voluntarily withdrawn from enrollment.

4.19 Removal. A person who does not meet the eligibility criteria for enrollment with the Klamath Tribes is subject to an action for removal from the membership roll. Such action may be brought by the Enrollment Committee or by a Petition to the Enrollment Committee with one-hundred (100) signatures of enrolled tribal members. The Enrollment Committee shall recommend to the Tribal Council that the individual be removed or not be removed based upon the evidence presented. The Tribal Council will make the final determination as to whether the individual meets the eligibility criteria. Notice and appeal procedures described in Sections 4.13 and 4.14 shall apply.

4.20 Klamath Tribal Roll. The 1954 Klamath Final Roll, and all original tribal and census rolls shall be made available for inspection to all enrolled Klamath Tribal members at the Klamath Tribes Enrollment Office. An updated roll shall be printed annually which shall include the names and related information of new enrollees and those removed from the rolls and shall be made available for inspection to enrolled Tribal members at Enrollment Committee meetings at the Klamath Tribal office.

Enrolled Klamath Tribal members may obtain a copy of the annual roll, or a portion thereof, upon written request to the Enrollment Office. The Enrollment Office may charge a reasonable copy and administrative fee for providing such copies.

Persons who are not enrolled members of the Klamath Tribes, who wish to obtain a copy of the annual roll, or a portion thereof, shall make the request in writing to the Tribal Council. The written request shall specify the purpose for which the request is being made and describe how the

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information will be used. The decision of the Tribal Council approving or denying the request for copies shall be final.

4.21 Verification of Enrollment. Upon request of the tribal member, the Klamath Tribes, or any tribal, state, or federal agency the tribal enrollment staff shall provide written verification that a person is or is not enrolled in the Klamath Tribes.


4.22 Amendments. This Ordinance may be amended by the Klamath Tribes General Council pursuant to duly adopted Resolution.

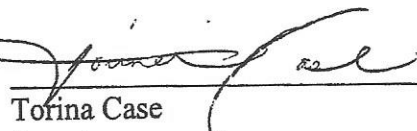
4.23 Sovereign Immunity. Except as expressly and specifically waived by a resolution of the Klamath Tribes, the Klamath Tribes shall be immune from suit, and their officers and employees also shall be immune from suit for liability arising from the performance of their official duties in administering and enforcing this Ordinance.

4.24 Severability. If any part or application of this Ordinance is held invalid, the remainder or its application to other situations or persons shall not be affected.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a Regular General Council meeting held on the 23rd day of February, 2008 with a quorum present, the General Council took action and duly adopted this Ordinance as Amended by a vote of 61 for, 0 opposed, and 6 abstentions.


Joe Kirk
Chairman
The Klamath Tribes


Torina Case
Secretary
The Klamath Tribes

Legislative History:

Adopted by the Klamath Tribes General Council on February 23, 2008