

Waganakising Odawak Statute 1995001

TRIBAL ENROLLMENT

BE IT ENACTED, by the Tribal Council of The Little Traverse Bay Bands of Odawa Indians as follows:

- SECTION 1. Statement of Purpose. The purpose of this Ordinance is to: Establish Tribal enrollment procedures, policies and guidelines.
- SECTION 2. Ordinance Title. This Ordinance shall be designated as the Enrollment Ordinance of The Little Traverse Bay Bands of Odawa Indians.
- SECTION 3. Authority. The Tribal Council of the Little Traverse Bay Bands of Odawa Indians has the authority for the enactment of this ordinance in accordance with the Tribal Constitution.
- SECTION 4. Tribal Enrollment: Base Roll. For purposes of this Ordinance and enrollment, the following are the Tribal Base Rolls:
1. 1908 Durant Roll as approved by Secretary of the Interior on February 18, 1910.
 2. May 2, 1996.
- SECTION 5. Eligibility Criteria for Membership.
1. In order to be eligible for membership in The Little Traverse Bay Bands of Odawa Indians an individual must meet one of the following qualifications:
 - a. A person whose name appears on the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910; or
 - b. traces to individuals listed on the 1870 Annuity payrolls of Ottawa & Chippewa Indians of Michigan listed under the following twelve chiefs:
Nawwemaishcotay,
Shawwawdayse, Shawwawnegwawnaybe, Louis Micksawbay, Awmegwawbay, Nawogemaw, Simon Keywawkezhick, Joseph Waybwaydum, Daniel Nesawwawquot, Payzhickwaywedung, Nawoquaygawbowe, Kawgegaypenayse; or
 - c. Traces to individuals who resided within the service area of the tribe as defined in Public Law 103-324 at the time of the 1908 Durant Roll as approved by the Secretary of the Interior on February 18, 1910; or
 - d. traces to an ancestor who resided in the

Service Area as defined in Public Law 103-324 and as listed in 1860-1920 Federal Populations Enumerations (i.e. Census records) and

2. A person of at least one-eighth Indian blood quantum traceable to Little Traverse Bay Bands as defined in Section 5.1. a-d and who is at least one-quarter Indian blood quantum total.
 - a. Is born on or prior to date of May 2, 1996.
 - b. And has made application for membership on or before May 2, 1996.

SECTION 6.

Enrollment Application Requirements.

1. File a written application for membership with the Little Traverse Bay Bands Tribal Office.
2. Provide evidence of eligibility pursuant to Section 5 of this Ordinance, including:
 - a. Blood quantum;
 - b. Ancestry; and
 - c. Other supporting documents of proof.

SECTION 7.

Enrollment Procedure. Enrollment of individuals shall be conducted in the following manner:

1. An application and appropriate supporting evidence are submitted to the Tribal Office.
2. The file shall be prepared and assigned a designated application number.
3. If there is a specified time for enrollment then all applications must be submitted and postmarked on or before that date.
4. The Tribal Office will have 120 days to act in either accepting or rejecting the application, or request more information in extraordinary situations.
5. Upon receipt of the application, the Tribal Office will investigate and make a recommendation of the individual's eligibility pursuant to Section 5 of this Ordinance. All applications based in whole or in part on affidavits will be referred to the Advisory Enrollment Committee and the Advisory Enrollment Committee shall make its recommendation to the Tribal Council as Certifier pursuant to Section 9. The Enrollment staff shall refer all other applications to the Enrollment Advisory Committee for its recommendation when the Enrollment staff is not confident that conclusive proof of eligibility has been

SECTION 8.

Creation and Role of the Advisory Enrollment Committee.

1. A nine (9) person Advisory Enrollment Committee shall be appointed by the Tribal Council. It shall consist of one (1) Tribal member from each of the following areas:
 - a. North Shore
 - b. Beaver Island
 - c. Good Hart
 - d. Harbor Springs
 - e. Bear River
 - f. Cross Village
 - g. Pine River
2. One (1) member of the Tribal Council or its designee. One (1) member from the Tribal Enrollment staff. The Chairperson of the Advisory Enrollment Committee shall be selected by the members of the committee.
3. The Advisory Enrollment Committee shall:
 - a. Advise the Enrollment Staff of the Tribal Office and other pertinent staff as to how the enrollment process may be made as fair and equitable as possible.
 - b. Review all applications that are based in whole or in part on affidavits. They shall also review all applications referred to it by the Enrollment Officer because of difficulties in confirming eligibility. The Committee will then make a recommendation to the Tribal Council based upon its review of all the information submitted by the applicant and compiled by the Enrollment Staff of the Tribal Office. If an elder member of the Committee has signed an affidavit on behalf of an applicant, the elder shall refrain from voting on the recommendation. The elder shall, however, be permitted to provide the Committee with testimony as to the applicant's eligibility.
 - c. Be able to enlist the aid of other Tribal elders to help substantiate an applicant's eligibility.
 - d. Review all applications referred to help substantiate whether an applicant is eligible or not eligible in accordance with membership requirements.
 - e. Review, at least once a month, on a random basis two (2) or three (3) applications that have been denied. The purpose of the review is to ensure that

the Enrollment Staff is properly implementing the criteria for membership. If an error is found in an application during the monthly review all applications denied since the last review date for the same reason shall be reconsidered by the Enrollment Staff of the Tribal Office.

4. The Advisory Enrollment Committee shall meet at least once a month or as often as necessary. As a guideline, the number of applications needing Advisory Enrollment Committee review should not rise above five (5) to seven (7) at any one time. The Chairperson shall call all meetings when the Enrollment Staff informs the Chairperson that there is a need for the meeting.
5. If an applicant appears to be eligible for membership, the Enrollment Staff shall make a report to the Tribal Council indicating the appearance of eligibility. The Tribal Council shall have the responsibility of reviewing the report and if appropriate, certifying the individual as a member. The Tribal Council may refer an application to the Advisory Enrollment Committee if he/she feels that further review is necessary before certifying or denying certification.
6. Upon certification the Enrollment Staff shall assign a membership number and prepare a membership card for the individual forthwith notify the individual of membership and forward the membership card.
7. A copy of all correspondence, and the membership card shall be maintained in the applicant's file by the Enrollment staff.
8. Upon completion of the certification process, the individuals named shall be placed on the Tribal roll.

SECTION 9. Appointment of Certifier. The Tribal Council shall be the official certifier of membership of The Little Traverse Bay Bands of Odawa Indians.

SECTION 10. Procedure in Declination of Applications for Membership.

1. If an applicant's eligibility cannot be documented by either the applicant or the Enrollment Staff, the applicant shall be notified by certified mail and given the opportunity to provide additional information

to establish eligibility. The applicant shall be given sixty (60) days to present the information. A thirty (30) day extension can be granted, if requested no later than the due date of the information. Such requests must be made in writing and submitted to the Tribal Office.

2. If an applicant appears to be ineligible, the enrollment staff shall make a report to the Tribal Council indicating the appearance of ineligibility. The Tribal Council shall have the responsibility of reviewing the report and file if he/she so desires. The Tribal Council has the authority to reject a recommendation pursuant to Section 9. If the Tribal Council accepts the recommendation of the Tribal Officer, the individual will be notified by certified mail and shall be provided with information regarding an appeal of the adverse decision pursuant to Section 13 of this Ordinance.

SECTION 11.

Disenrollment. Any enrolled member of the tribe who applies for and becomes an enrolled member of any other federally recognized Indian Tribe, Band or group subsequent to their enrollment in The Little Traverse Bay Bands of Odawa Indians, shall thereby forfeit membership in The Little Traverse Bay Bands of Odawa Indians. Upon notice of such enrollment in another federally recognized Tribe, Band or group, the Tribal Office shall:

1. Contact the member and state the provision of this Section.
2. Provide the individual with the right to respond within 30 days.
3. After 30 days if there is no response, and the subsequent enrollment is verified by documentation the Enrollment Staff shall submit a certificate of disenrollment to the Council along with a report.
4. If the Council determines that the disenrollment report is proper, the certification of disenrollment shall be entered.
5. Upon entering of the certification of disenrollment, the Tribal staff shall:
 - a. Inform the individual of the Tribe's action; and
 - b. Inform the individual of the appeals procedure pursuant to Section 13 of this Ordinance.

SECTION 12.

Relinquishment of Membership. "Relinquishment" is defined as voluntarily and officially giving up the right of tribal membership. It is an action than can be taken only by an individual member not by the Tribe. An individual may relinquish membership by:

1. Submitting a written and signed notarized statement requesting that his or her name be removed from the membership roll.
2. The only acceptable proof of relinquishment is the signed letter of relinquishment.
3. Once an individual has relinquished membership, that individual is banned from re-applying for a period of five (5) years.
4. Membership of a minor or incompetent may be relinquished by the parents or legal guardian. But in such event the minor may re-apply, within the five (5) year period, or upon reaching the age of seventeen, and the incompetent's relinquishment may be corrected by proving competency.
5. If a person is competent, the Tribe may not refuse a member the right to relinquish.

SECTION 13.

Appeal of Enrollment Declination.

1. The Little Traverse Bay Bands of Odawa Indians Tribal Court will determine all rulings for the appeal of declination or disenrollment matters until such time that the Tribal Court is established an Appeals Panel of three (3) tribal members will rule in any and all enrollment declination or disenrollment matters. One (1) member of the Appeals Panel will be appointed by the Tribal Council, one (1) member of the Appeals Panel will be appointed by the Tribal Enrollment staff and one (1) member of the Appeals Panel will be appointed by the Enrollment Advisory Committee.
2. Any person who has been rejected for enrollment has a right to an appeal from adverse enrollment action. The burden of proof of establishing eligibility at the appeal process is on the applicant.
3. All appeals shall be in writing. An applicant shall have 60 calendar days from the date of the declination notice to file an appeal in writing.
4. An applicant shall be granted a 60 day extension of the appeal time, if a written request for such an extension is received within the original 60 day appeal period.

5. The sole purpose of an Appeals Process will be to determine:
 - a. If there has been an error in declination or disenrollment of applicant.
 - b. For all parties to examine records documents, and to provide testimony or other evidence which would support the application for membership or continuance of membership. The burden of proof is completely on the individual applicant.
6. The appeal should include any supporting evidence not previously furnished and may include a copy of or reference to any Bureau of Indian Affairs or Tribal records having a direct bearing on the applicant's eligibility. An applicant may request additional time to submit supporting evidence. A period considered reasonable for such submissions may be granted by the Tribal Court or Appeals Panel.
7. A minimum of three (3) Affidavits from Tribal elders, who are not related to the applicant, are an acceptable offer of proof of either ancestry or blood quantum (of either the applicant or a claimed ancestor) along with other information that may be taken into consideration. Each applicant who is informed of the right to submit an affidavit shall also be informed that affidavits will be considered along with all other information, and that the reviewing body is free to assign whatever weight it feels is appropriate to any affidavits submitted.
8. Only affidavits submitted by a tribal elder are valid offers of proof. An elder is defined to be a tribal member who is fifty-five (55) years old or older, living on or off the reservation. The affidavit should allege facts that establish the basis of the knowledge that the elder claims to have of the applicants eligibility. All applicants notified of the right to submit an affidavit shall be informed of these requirements.

SECTION 14.

Annual Report Requirement. All members of The Little Traverse Bay Bands of Odawa Indians shall be required to report to the Tribal Office Staff on an annual basis in order to be entitled to any monetary benefits that may accrue to members.

1. Such reports shall be addressed to the Tribal

Office and contain the following information:

- a. Legal name of member;
 - b. Membership number; and
 - c. Current address.
2. Such reports shall be submitted annually on or before August 31 of each year.
3. Within 90 days after August 31 of each year the Tribal Officer shall submit a report to the Tribal Council, which shall contain:
- a. The total number of reporting members;
 - b. A complete updated roll;
 - c. The date filed; and
 - d. A list of delinquent members who have failed to provide annual report information.

SECTION 15.

Confidentiality. Records subject to confidentiality provisions as used in this ordinance, "records" or "enrollment files" means any item, collection, or grouping of information about or collected from individuals, including, but not limited to, birth certificates, genealogy reports, or other documents that contain the individual's name, or identifying particulars assigned to the individual, such as photographs, which information is collected for the purpose of determining the eligibility for enrollment in the Tribe of an individual or members of an individual's family.

SECTION 16.

Use of information. Each person who supplies or is asked to give information about such person's family shall be informed of the use or uses to which the information may be put, and what the consequences, if any, are of not supplying the information.

SECTION 17.

Notice of use of information. At minimum, the notice to the person must state the

1. authority which authorizes the solicitation of the information and that the disclosure of such information is voluntary;
2. The principal purpose of such information is determine the eligibility of that person and/or that persons' relations for enrollment in the tribe;
3. The information may also be used to determine the eligibility of that person and/or that person's relations for benefits available from the tribe, local, state or federal government which are made available to persons of a certain Indian blood quantum;

4. The effect on that persons' relations, if any, of not providing all or part of the requested information;
5. The steps which will be taken to keep such information and the procedure for authorizing disclosure or information to persons not authorized to access such information under this ordinance.

SECTION 18.

Assuring integrity of records.

1. The following shall apply to all manual enrollment files:
 - a. Areas in which the records are maintained or regularly used shall be posted with an appropriate warning stating that access to the records is limited to authorized persons.
 - b. During working hours, the area in which the records are maintained or regularly used shall be occupied by authorized personnel or the access to the records shall be restricted by their storage in locked cabinets or a locked room.
 - c. During nonworking hours, access to the records shall be restricted by their storage in locked cabinets or a locked room.
2. Records maintained on computer will have limited access to only those staff or personnel with written authority of the Tribal Council.

SECTION 19.

Conduct of employees.

1. The following persons are authorized pursuant to subsection (3) of this section to review and handle enrollment files upon being sworn to taking an oath of confidentiality.
 - a. Enrollment Officer
 - b. Authorized Enrollment Staff
 - c. Members of the Advisory Enrollment Committee
 - d. Members of the Appeals Panel
 - e. Authorized Judicial members
 - f. Members of the Tribal Council
2. All of the above individuals listed, whose duties require handling of records are subject to this ordinance and at all times shall take care to protect the integrity, security and confidentiality of all enrollment files and documentation.
3. No records contained in enrollment files may be disclosed by any means of communication to

any person, or another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, except;

- a. for purposes of the Bureau of the Census for planning or carrying out a census or survey or related activity pursuant to the provision of Title 13 of the United States Code.
- b. To a recipient who has provided the enrollment officer, or other person responsible for the record system in which the documents contained in the enrollment files are maintained, with advance adequate written assurance that the records will be used solely as a statistical research or reporting record, and the records are to be transferred in a form that is not individually identifiable.
- c. To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to last known address of such individual.
- d. Pursuant to the order of the tribal court upon showing of good cause.

SECTION 20. Record of Disclosures. Where a record is disclosed to any person, or to another agency, under any of the specific exceptions provided by Section 18, subsection (3), an accounting shall be made. The accounting shall record who requested the disclosure, the date, nature and purpose for each disclosure, and of the person or persons of whom the disclosure was about.

SECTION 21. Request for access to records. Any request for access to records contained in enrollment files shall be made in writing to the enrollment officer, whereas the officer shall advise the individual or agency requesting the record as to where and when the records is available for inspection or as to when and where copies will be made available. Any decision denying a request for access, in whole or in part, shall be in writing and shall state the basis for denial of the request. The decisions shall also contain a statement that the denial may be appealed to the Tribal Council no later than twenty (20) days after the date of denial.

Tribal Council no later than twenty (20) days after the date of denial.

SECTION 22. Severability. If any section, subsection paragraph sentence, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 23. Effective Date. This Ordinance took effect on - January 22, 1995 and all date and times for actions shall begin to run upon this date.

CERTIFICATION

The foregoing Revised Ordinance was duly amended by The Little Traverse Bay Bands of Odawa Indians, with a quorum being present during a regular meeting, on the 22 day of January 1995 by a vote of 4 for, 0 against, and 0 abstaining.

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary