

PART IV - MOHEGAN COUNCIL OF ELDERS CODE

Chapter 31 - GOVERNMENT^[1]

ARTICLE I. - TRIBAL ENROLLMENT^[2]

Footnotes:

--- (2) ---

Editor's note— Printed herein is the Mohegan Tribal Enrollment Ordinance, as revised by Resolution 2006-27-E, adopted November 30, 2006. In effect, these resolutions repealed former Art. I, §§ 31-1—31-7, which pertained to similar subject matter; and derived from Ord. No. 2003-1-E, adopted January 9, 2003; Res. No. 2004-5-E, adopted May 13, 2004; Res. No. 2004-10-E, adopted October 7, 2004; and Res. No. 2006-19-E, adopted July 27, 2006.

Sec. 31-1. - Definitions.

Whenever used in this Article, the Membership Ordinance or the Enrollment and Membership Office Rules and Procedures, the following terms shall have the following meanings:

Applicant means any person who has filed an application for enrollment in the Mohegan Tribe of Indians prior to approval or denial of the application.

Base Roll means the roll of tribal members identified in the Mohegan Constitution as establishing the right to membership.

Chairman means the Chairman of the Council of Elders and the Vice-Chairman when acting in the capacity of Chairman.

Council means the Council of Elders.

Database means the enrollment records and data preserved in electronic format at the direction of the Council of Elders.

Disenrollment means the voluntary or involuntary loss of membership in the Mohegan Tribe.

Enrollment means the submission of documentation pursuant to this Article to reflect meeting the Constitutional requirements for membership in the Mohegan Tribe.

Enrollment and Membership Office means the office and personnel delegated authority by the Council of Elders for handling enrollment applications, membership records and services and tribal rolls pursuant to this Article, the Membership Ordinance, and any rules and procedures promulgated by the Council of Elders.

Enrollment and Membership Office Rules and Procedures means the rules and procedures promulgated by the Council of Elders.

Lineal descendant means the biological child, grandchild, great-grandchild, etc. of a person listed on the May 11, 2002 tribal roll.

Long Form Birth Certificate means a certified document verifying the time, date, place of an individual's birth, including a traceable number and the parents' names and dates of birth or ages at the time of the individual's birth.

Maintain means to be provided with a copy.

Manage, administer and direct means to exercise executive, administrative, and supervisory direction of; to manage or supervise the execution, use, or conduct of; and to regulate the activities or course of; and to carry out the organizing, energizing, and supervising of.

Tribal Roll means the listing of all tribal members containing the names, addresses, telephone numbers, tribal identification numbers, names of Mohegan parent and grandparent, and membership status.

Tribe means the Mohegan Tribe of Indians of Connecticut.

Verified Written Statement means a notarized declaration in writing, signed by the declarant.

1994 Tribal Roll means the May 15, 1994 Tribal Roll of the Mohegan Tribe of Indians of Connecticut as of federal recognition, as approved on January 20, 1999.

May 11, 2002 Tribal Roll means the May 11, 2002 Tribal Roll of the Mohegan Tribe of Indians as certified by the Council of Elders and addenda as certified by the Council of Elders.

(Res. No. 2006-27-E, 11-30-2006)

Sec. 31-2. - General Provisions.

- (a) *Enrollment.* The Tribal Roll shall be the exclusive list of persons enrolled in the Mohegan Tribe. No person shall be entitled to membership in the Tribe unless he or she meets the requirements as set forth in the Mohegan Constitution. Every member of the Mohegan Tribe shall be entitled to all of the rights and privileges of membership, and subject to all the duties and obligations thereof, unless subject to penalties as set forth in Part 2.5 or subject to the suspension of tribal benefits and privileges as determined by the Council of Elders.
- (b) *Record of Membership.* All members of the Tribe shall be listed on the Tribal Roll, which shall be administered by the Council of Elders.
- (c) *Confidentiality.* Each application for enrollment and any information sought or obtained by the Enrollment Office or the Council of Elders that directly relates to the eligibility of any person(s) for enrollment in the Mohegan Tribe shall be confidential. All materials submitted by an applicant become the property of the Mohegan Tribe within the custody of the Council of Elders upon submission. All materials shall be made available by the Enrollment Office to the Council of Elders for review, provided that all original documents shall be copied for official use, and the originals returned to the applicant. Applicants and tribal members shall have access by appointment to their own enrollment records, and to all materials pertaining to their own right to membership. Parents and/or guardians shall have access by appointment to the enrollment and membership records of their children or wards. No application, or the substance of the information contained therein or accompanied therewith, or any memoranda or communications regarding the eligibility for enrollment of any person or the membership status of any person, shall be made available to any other person, except at the direction of the Council of Elders.
- (d) *Burden of Proof.* The burden of proof rests upon the applicant to establish all elements of the applicant's eligibility for enrollment. The Council of Elders shall prescribe the form of application.
- (e) *Penalties.*
 - (1) Any applicant who knowingly files false information regarding enrollment may be subject to a civil penalty not to exceed \$1,000.00 for each violation and/or suspension of tribal benefits and privileges.
 - (2) Any person who is wrongfully enrolled by virtue of false information shall be responsible for immediate repayment, with interest, of any benefits received from the Tribe, upon final action by the Council of Elders removing the person from the Tribal Roll based on the determination that such information is false.

- (3) Applications for enrollment of tribal members' children shall be filed within one year of the child's birth. Failure to do so will result in the imposition of a monetary penalty not to exceed \$500.00. This penalty shall be imposed by the Council of Elders upon the parent's quarterly revenue allocation distribution. The imposition of the \$500 penalty shall continue upon each quarterly revenue allocation distribution until the enrollment of the child is completed.
- (4) Any person who violates the confidentiality provisions of this Article may be subject to a civil penalty not to exceed \$1,000.00 for each violation and/or suspension of tribal benefits and privileges.
- (5) Any person who engages in conduct described in Part 4.1 of the Membership Ordinance may be determined not to be in good standing. Such a determination may result in the suspension of the benefits and privileges of membership, as set forth in the Membership Ordinance.

(Res. No. 2006-27-E, 11-30-2006, Res. No. 2017-10-E, 04-13-2017)

Sec. 31-3. - Establishment of Enrollment and Membership Office.

- (a) There is hereby established the Mohegan Tribal Enrollment and Membership Office, which shall be managed, administered and directed by the Council of Elders.
- (b) The Enrollment and Membership Office is hereby delegated the following authority and responsibility:
 - (1) Numbering and dating all incoming applications for enrollment;
 - (2) Reviewing applications for adequacy of documentation;
 - (3) Informing applicants of any deficiencies in documentation;
 - (4) Submitting applications to the Council of Elders for review and recommendation;
 - (5) Maintaining the enrollment database in accordance with this Article, the Membership Ordinance and any rules, policies and procedures promulgated by the Council of Elders;
 - (6) Preparation of the annual Tribal Roll Report, consistent with the requirements of this Article, for review and certification by the Council of Elders;
 - (7) Any additional duties as assigned by the Council of Elders.

(Res. No. 2006-27-E, 11-30-2006; Res. No. 2014-16-E, 8-7-2014)

Sec. 31-4. - Qualifications for Enrollment.

- (a) *Evidence in support of application.* Evidence of lineal descent shall be established by paternal or maternal DNA testing. In addition, an application for enrollment shall be supported by a notarized statement of biological children, a certified copy of an applicant's long form birth certificate, legal adoption papers, or other lawful documentation naming the applicant's parent(s) and date(s) of birth or age(s) of parent(s) at time of birth.
 - (1) If a genetic-testing specimen is not available from the Mohegan parent of a child, for good cause and under circumstances the Council of Elders considers to be just, the Council of Elders may accept specimens from the following individuals for genetic testing:
 - a. The parents of the Mohegan parent;
 - b. The brothers and sisters of the Mohegan parent;
 - c. Other children of the Mohegan parent and their mother or father, whichever the case may be;
 - d. Other relatives of the Mohegan parent necessary to complete genetic testing.

- (2) In the event that a Mohegan relative DNA sample is not available, the Council of Elders may, in its discretion, waive the DNA test requirement if other evidence is provided as verification of lineal descent.
- (3) The cost of a DNA test or tests undertaken for the purpose of determining an applicant's entitlement to enrollment in the Mohegan Tribe will be the sole responsibility of the person(s) whose membership is at issue unless directed otherwise by the Council of Elders.
- (4) In the event that paternal or maternal DNA testing indicates that the applicant does not descend from a Mohegan parent, the applicant or his/her parent/guardian may appeal. Processing of the appeal may involve further DNA testing to rule out the possibility of genetic anomaly, including, but not limited to, chimerism (defined herein as the composition of an individual from cells with more than one genetic background, resulting from a fusion of two or more zygotes) or incorrect results due to sample mishandling or loss.
- (5) DNA testing shall be performed by a laboratory accredited by the American Association of Blood Banks, the College of American Pathologists, and the State in which the laboratory is located. In addition, said laboratory shall comply with the standards for maintaining the privacy of health information as set forth in the Health Insurance Portability and Accountability Act of 1996 and related regulations.
- (6) The sale or attempted sale of Mohegan genetic material for enrollment purposes shall constitute a violation of Mohegan law and may result in a negative good standing determination.
- (7) Appeals shall be governed by the process set forth in the Enrollment Office Rules and Procedures.

(b) *Effect of Adoption.*

- (1) An applicant constitutionally eligible for enrollment shall continue to be eligible if adopted by person(s) other than members of the Mohegan Tribe.
- (2) Children adopted by tribal members are not considered to be members of the Mohegan Tribe of Indians of Connecticut, unless one biological parent is a Mohegan tribal member.

(Res. No. 2006-27-E, 11-30-2006)

Sec. 31-5. - Procedure for Determination of Enrollment.

The procedure for enrollment in the Mohegan Tribe shall be set forth in the Enrollment and Membership Office Rules and Procedures promulgated by the Council of Elders.

(Res. No. 2006-27-E, 11-30-2006)

Sec. 31-6. - Appeals.

The process for appeals regarding enrollment matters is set forth in the Enrollment Office Rules and Procedures. The actions of the full Council of Elders, with respect to final tribal enrollment and membership reconsiderations, including approval or denial of an application for tribal enrollment, removal of a person from the Tribal Roll, restoration of membership, additions or corrections to the Tribal Roll, good standing determinations and any other matter affecting tribal membership and enrollment, shall be considered final.

(Res. No. 2006-27-E, 11-30-2006)

Secs. 31-7—31-20. - Reserved.