

**TITLE 11  
ENROLLMENT**

**CHAPTER I  
GENERAL PROVISIONS**

**Section 11-1-1: Authority:** This Ordinance is enacted by the Executive Committee of the Flandreau Santee Sioux Tribe in accordance with Article II, Section 2 of the Flandreau Santee Sioux Tribal Constitution.

**Section 11-1-2: Purpose:** The purpose of this Ordinance is to provide rules, regulations and procedures governing the enrollment of eligible individuals into the membership of the Flandreau Santee Sioux Tribe and to incorporate the policies adopted by the General Council of the Tribe by the special enrollment vote taken on September 15, 1997.

**Section 11-1-3: Definitions:** The following definitions apply to this Ordinance:

- (1) Adoption: The creation of a parent-child relationship by judicial order between two parties who may or may not be related.
- (2) Ancestral: means Lineal descendency.
- (3) Applicant: means the individual submitting an application for enrollment.
- (4) Application: means an enrollment application proscribed and approved by the Enrollment Committee.
- (5) Base Enrollee: A person whose name appears on the FSST 1934 Base Roll and the 1935 and 1936 Supplements thereto;
- (6) Birth Certificate: means an original certificate of live birth signed and certified by the authority issuing it which is not in any way altered or otherwise illegible.
- (7) Born to a tribal member: means a biological child of a tribal member regardless of whether the parent was a member of the Tribe at the time of birth.
- (8) Committee: means the Flandreau Santee Sioux Enrollment Committee established by the terms of this Ordinance.
- (9) Constitution: means the Amended Constitution and By-laws of the Flandreau Santee Sioux Tribe.
- (10) Day or Day(s): means business days not calendar days.

- (11) Disenroll: means official action taken under the terms of this Ordinance removing a member from the membership rolls and membership of the Tribe.
- (12) DNA: is the acronym for deoxyribonucleic acid, which is that nucleic acid that carries the genetic information in the cell and is capable of self-replication and synthesis of ribonucleic acid "RNA."
- (13) Dual Enrollment: means that an individual who is a member of the Tribe is also enrolled with another Tribe or is recognized as a member of another federally recognized Tribe for purposes of receiving benefits from the other tribe.
- (14) Enrollment: means official action taken under the terms of this Ordinance making an individual a member of the Tribe.
- (15) Executive Committee: means the governing body of the Flandreau Santee Sioux Tribe.
- (16) Federally recognized Indian Tribe: means any Indian Tribe that is recognized by the Federal government for the purposes of receiving federal assistance and which is listed in the Federal Register as a federally recognized Indian tribe regardless of whether the tribe is called a tribe, a nation, an Indian Community, or any other term used to describe the Tribe.
- (17) Incompetent: means an individual who has been declared incompetent by court order.
- (18) Indian Blood: means blood from any federally recognized Indian Tribe.
- (19) Minor: means an individual less than 18 years of age.
- (20) Tribal Blood: means blood from Flandreau Santee Sioux Tribe as evidenced from the Base Roll(s) of the Tribe.
- (21) Tribe: means the Flandreau Santee Sioux Tribe.

**Section 11-1-4: Enrollment Office:** There is hereby established an Office of Tribal Enrollment. The purposes of the Office of Tribal Enrollment are:

- (1) To receive applications for enrollment;
- (2) To review applications for content and completeness;
- (3) To contact applicants to request information;
- (4) To coordinate and meet with the Enrollment Committee on all enrollment actions;

- (5) To process enrollment applications;
- (6) To maintain accurate and current enrollment files;
- (7) To record all actions taken on specific enrollment actions;
- (8) To research records to obtain adequate documentation for enrollment actions;
- (9) To protect the privacy of members and applicants;
- (10) To ensure that the requirements of this Ordinance are enforced; and
- (11) To perform any other duties which are necessary for fulfilling the purposes of this Ordinance or which may be assigned by the Enrollment Committee or the Executive Committee.

The Enrollment Office shall establish procedures for its internal operations.

**Section 11-1-5: Confidentiality:** All information contained in an individual's record pertaining to enrollment shall remain confidential. Information contained in any record that is protected by confidentiality may be released only upon a signed release of information from the individual whose record is sought to be reviewed. The Enrollment Clerk, the Enrollment Committee, and the Executive Committee shall have access to such records only as is necessary to fulfilling duties under this Ordinance. Original records related to individual enrollment or membership shall not be removed from the official enrollment records in the Tribal Office. Copies may be made only with prior written approval of the Executive Committee and the Enrollment Office and for only the purpose of fulfilling duties under this Ordinance. Any tribal member or applicant for enrollment may request information pertaining to their enrollment or the enrollment of their minor child from the Enrollment Committee. However, to the extent such information pertains to any individual not the applicant or tribal member's minor child, it may not be released by the Enrollment Committee without a signed release of information from any individual whose information is included. Documents may be reviewed with the approval of the Enrollment Committee as described herein, but copies of any materials are subject to the approval requirements discussed in this paragraph.

**Section 11-1-6: Prior inconsistent ordinances repealed:** Any prior inconsistent ordinance(s), resolution(s), policy or rule are hereby repealed and of no further force or effect.

**Section 11-1-7: Savings/Severability:** Each section of this Ordinance shall be severable from every other section. In the event that any part of this Ordinance is found to be invalid by a court of competent jurisdiction, the invalid part shall be severable and the remainder shall remain in full force and effect.

**Section 11 -1 -8: Amendments:** Any amendment to this Ordinance shall be by resolution of the Executive Committee and approval of the Bureau of Indian Affairs. The Enrollment Committee may make recommendations to the Executive Committee concerning amendments.

**Section 11-1-9: Effective Date and Application:** This Ordinance shall become effective upon approval of the Executive Committee and upon review as prescribed in Article II, Section 2 of the Constitution, and shall apply to all pending and future enrollment actions.

## **CHAPTER 2 ENROLLMENT COMMITTEE**

**Section 11-2-1: Enrollment Committee established:** There is hereby established an Enrollment Committee whose duties shall be as described in Section 11-2-2 of this Chapter. The Enrollment Committee shall consist of five members who shall be appointed by the Executive Committee upon approval of this Ordinance. The Enrollment Committee shall elect from among its members a Chairperson and a Secretary. The Chairperson shall preside over all meetings. Members of the Enrollment Committee shall serve two year terms and shall be subject to reappointment upon expiration of their terms.

**Section 11-2-2: Duties of the Enrollment Committee:** The duties of the Enrollment Committee shall be as follows:

- (1) To accept applications for enrollment with the Flandreau Santee Sioux Tribe;
- (2) To review applications for enrollment for determination of eligibility in accordance with this Ordinance and the Constitution;
- (3) To determine eligibility or ineligibility for enrollment with the Tribe in accordance with this Ordinance and the Constitution;
- (4) To act on cases of relinquishments, dual enrollments, and disenrollments in accordance with this Ordinance and the Constitution;
- (5) To ensure that the requirements of this Ordinance and the Constitution are carried out and enforced; and
- (6) Any other duties as may be delegated by the Executive Committee or required to carry out the duties of the Committee and the requirement of this Ordinance.

The Committee shall have no authority or in any way alter the Tribe's Base Roll and supplements thereto except in accordance with Chapter 5.

**Section 11-2-3: Meetings:** The Enrollment Committee shall hold monthly meetings and the Chairperson may call other meetings as is necessary. If it appears that the Committee has no official business upon which to act, the monthly meeting may be cancelled by the Chairperson of the Committee. Meetings shall be conducted in accordance with Robert's Rules of Order. The Secretary shall keep minutes of all meetings. All original minutes of Committee meetings shall be kept in the Enrollment office.

**Section 11-2-4: Removal:** Failure of a Committee member to attend two consecutive meetings without adequate excuse shall be grounds for automatic removal. The Committee shall recommend removal to the Executive Committee. The Executive Committee shall have authority to remove the Committee member. The Committee shall be given notice and shall have the right to respond to the recommendation for removal. A Committee member may also be removed for any of the following causes:

- (1) Violation of any of the duties set forth above;
- (2) Accepting bribes in return for a favorable vote on any application;
- (3) Taking action in regard to enrollment decisions which is not legal or lies outside the Committee member's authority;
- (4) Knowingly jeopardizing, delaying or prejudicing the application of a person seeking membership;
- (5) Violation of the requirements of confidentiality.

Removal charges against a Committee member for cause may be brought by any of the following methods:

- (1) A petition signed by one-fourth of the General Council;
- (2) A majority vote of the Executive Committee; or
- (3) A recommendation of a majority of the Committee.

Upon receipt of written action for removal, the Executive Committee shall give written notice by certified mail to the Committee member charged. A hearing will be held no later than twenty (20) days after receipt of the Complaint. The complaining parties and Committee member shall be given notice regarding the time and place of hearing. The Executive Committee's decision regarding removal shall be final.

### **CHAPTER 3 ELIGIBILITY FOR ENROLLMENT**

**Section 11-3-1: Eligibility for membership in the Tribe:** In accordance with Article II of the Constitution, membership in the Flandreau Santee Sioux Tribe shall consist of all persons who meet any of the following provisions:

- (1) All persons of Indian blood whose names are on the official census roll of the Tribe as of June 30, 1934, and on the January 1, 1935 and 1936 supplements;

- (2) All children born to any member of the Flandreau Santee Sioux Tribe provided that the child possesses one quarter (1/4) or more degree of Flandreau Santee Sioux blood;
- (3) All children born prior to November 2, 1967, to any member of the Flandreau Santee Sioux Tribe who was a resident of any territory of the Tribe or of Moody County in South Dakota at the time of the birth of said children; and
- (4) All persons who meet the following requirements:
  - (a) born to a member the Flandreau Santee Sioux Tribe; and
  - (b) possessing one quarter (1/4) or more total degree Indian blood of a federally recognized Indian tribe with an ancestral trace back to the Tribe's 1934 base roll, the January 1,1935, Supplement, and the 1936 Supplement.

**Section 11-3-2: Severability:** If the constitutional requirements for enrollment with the Tribe shall be changed by constitutional amendment, such amendments will be automatically included with this Ordinance.

**Section 11-3-3: Individuals not eligible for enrollment:** The following persons shall not be eligible for enrollment into the Tribe:

- (1) Any person who was or is previously enrolled with any other Indian tribe regardless of whether the person has relinquished his or her enrollment with the other tribe;
- (2) Children of Indian blood of other Indian tribes or non-Indian children who have been legally adopted by members of the Tribe; and
- (3) Individuals who were previously enrolled with the Tribe and have relinquished their membership in the Tribe.

#### **CHAPTER 4 ENROLLMENT PROCEDURE**

**Section 11-4-1: Procedure:** Any individual who wishes to be considered for enrollment with the Tribe shall file an enrollment application with the Enrollment Office. Each application shall be accompanied by the following:

- (1) An original certificate of live birth;
- (2) The original results of a DNA analysis on the applicant, his or her biological mother, and his or her biological father; and

- (3) If father's name is not present on the original birth certificate and eligibility for enrollment is dependent on the father's Indian blood, proof of paternity as provided in Chapter 5;
- (4) Proof of Indian blood from a federally recognized tribe if eligibility for enrollment is under Article II Section 1(d) of the Constitution.

The Executive Committee shall set an application fee to cover the administrative cost of processing enrollment applications. Such fee shall initially be Two Hundred Dollars (\$200) but may be adjusted from time to time by the Executive Committee. Every application shall be stamped with the date it was received. Upon receipt of an enrollment application with the required documentation, the Enrollment Office shall review the application to ensure that it is complete and to verify and determine the blood degree of the applicant.

Application processing includes, but is not limited to, verification of submitted documents, verification of the applicant's identity, and whether the applicant has been enrolled in another Tribe. A DNA test for the sole purpose of determining parentage shall be required. The applicant will be notified of the requirement for a DNA test upon successful initial processing of his/her application. Such DNA test shall require DNA analysis of the parent or parents necessary to demonstrate a biological connection for determining tribal and/or Indian blood quantities.

DNA analysis is to be conducted by an independent testing laboratory contracted by the Tribe and shall be considered valid upon a 99.99% or greater probability. As part of the enrollment process, the applicant must agree to work with the Enrollment Office in order to set DNA testing times and locations for both the applicant and relevant parent(s). An applicant's failure to cooperate with the Enrollment Office or failure to submit to DNA analysis within ninety (90) days of being requested to do so by the Enrollment Officer is equivalent to an admission of ineligibility for membership and the membership application will be withdrawn.

The applicant shall pay for the cost of the DNA test. However, upon written application to the Enrollment Committee demonstrating substantial financial hardship, the Tribe may choose to initially cover the cost of a DNA test for an applicant. In these cases, that cost shall be reimbursed by either: (1) in the case of an applicant being granted membership, withholding the amount from the member's first per capita payment; (2) in the case of an applicant being denied membership, by a payment plan arranged between the Enrollment Office and the applicant, provided that the Tribe reserves the right to take any and all available legal action against any applicant who fails to reimburse the Tribe for the initial cost of the DNA test; or (3) in the case of minors, from the member-parent's next per capita payment.

Processing is complete upon conclusive DNA test results, determination of the applicant's blood quantum, and completion of family tree. DNA test results remain the property of the Tribe and will be stored in the Enrollment Office's confidential files.

Upon proper verification, the Enrollment Office shall submit the application to the Enrollment Committee for review at its next scheduled monthly meeting. If any application is incomplete the Enrollment Office shall promptly notify the applicant in writing and suspend further action until the application is complete.

**Section 11-4-2: Notification to Applicant:** Every applicant for enrollment shall be entitled to notice of action taken at each stage of the proceeding, including but not limited to:

- (1) Receipt of the application;
- (2) Initial screening action taken by the Enrollment Office;
- (3) Action taken rejecting the application for incompleteness;
- (4) Action taken by the Enrollment Committee;
- (5) Action taken by the Executive Committee;
- (6) Action taken concerning appeals.

Notification shall be made promptly in writing by certified mail.

**Section 11-4-3: Applications on behalf of minors and incompetents:** Applications for enrollment of minors or incompetents may be made by a parent, legal guardian, next of kin, or a tribal official on behalf of the minor or incompetent. The individual making the application on behalf of the minor or incompetent shall be responsible to ensure that all procedures required under this Ordinance for making application for enrollment are followed.

**Section 11-4-4: Burden of Proof:** The burden of proof for establishing eligibility for enrollment with the Tribe shall be on the individual making the application. The 1934 Base Official Membership Roll of the Tribe shall be the authoritative document to be used in establishing FSST Tribal blood degree, provided that errors in blood quantum shown on the roll may be corrected in accordance with Chapter 5.

**Section 11-4-5: Review by Enrollment Committee:** Upon receipt of a completed application for enrollment and initial determination of blood degree by the Enrollment Office, the application for enrollment shall be submitted to the Committee for review. The Committee shall review the application and make a determination of the applicant's eligibility in accordance with the eligibility criteria set out in the Constitution and this Ordinance. If the applicant is found to be eligible for enrollment, the Committee shall forward the name of the individual to the Enrollment Office for publication in accordance with Section 11-4-6. If the applicant is found to be ineligible for enrollment, the Committee shall notify the applicant of its decision and of the right to appeal in accordance with Chapter 7. It shall also provide notice to the Executive Committee of the Committee's decision. Regardless of whether the applicant files an appeal of the Committee's decision, the Executive Committee may of its own volition review the application file and make a decision

to grant enrollment in accordance with 11-4-8. The Committee may table applications only where there is insufficient documentation upon which a determination can be made.

**Section 11-4-6: Publication of individuals recommended for enrollment/challenges to enrollment action:** The Enrollment Office shall prepare a list of all individuals who have been deemed eligible for enrollment by the Committee. The list shall be published in the tribal newsletter and in the tribal office for a period of fifteen days. Any tribal member shall have the right to challenge the enrollment of any person whose name appears on the list by filing a written challenge with the Enrollment Office within fifteen working days of the date the list was published. A challenge shall be in the form of a notarized affidavit signed under oath of perjury and shall state the grounds for the challenge and including any substantiating facts or evidence. If a challenge to any name appearing on the list is filed, a hearing shall be conducted in accordance with 11-4-7. All individuals appearing on the list who have not been challenged within the time prescribed shall be deemed eligible for membership by the Committee in accordance with Section 11-4-8.

**Section 11-4-7: Hearing on enrollment challenge:** If an enrollment challenge is filed under Section 11-4-6, the Committee shall schedule a hearing within fifteen days and notify all parties by certified mail. The applicant for enrollment shall be given a copy of the enrollment challenge. At the hearing, the Committee shall take evidence from the person making the challenge and the applicant or the person making the application on behalf of the applicant. The Committee may make a decision based on the evidence presented or it may determine that a further investigation should be conducted. If the Committee determines that the applicant is eligible for enrollment, the applicant shall be granted membership by the Executive Committee in accordance with Section 11-4-8. If the Committee determines that the individual is ineligible for enrollment based on the challenge, the Committee shall notify the applicant of its decision and of the right to appeal in accordance with Chapter 7. It shall also provide notice to the Executive Committee of the Committee's decision. Regardless of whether the applicant files an appeal of the Committee's decision, the Executive Committee may of its own volition review the application file and make a decision to grant enrollment in accordance with 11-4-8.

**Section 11-4-8: Resolution by Executive Committee:** Official enrollment or determination of ineligibility for enrollment into the Tribe shall be by resolution passed by the Executive Committee. Within ten (10) days of a determination that an individual is either eligible or ineligible for membership in the Tribe, the Executive Committee shall notify the Enrollment Office. The Enrollment Office shall prepare a resolution documenting the disposition of each application and submit them to the Executive Committee for approval. All resolutions shall be acted upon by the Executive Committee within fifteen (15) days of receipt.

**Section 11-4-9: Enrollment/ Notification:** Upon official enrollment by the Executive Committee, the Enrollment Office shall immediately add the individual to the Membership Rolls of the Tribe and assign the member an enrollment identification number. The member shall be immediately notified of the enrollment action and be provided with a certificate of enrollment. If the applicant is deemed ineligible for enrollment, the applicant shall be

immediately notified of the denial, the reasons for the denial, and the right to appeal in accordance with Chapter 7. All notifications required under this section shall be in writing and delivered by certified mail.

**Section 11-4-10: Enrollment Certificate:** Each individual who is enrolled into the Tribe shall be issued certificate of enrollment. The certificate shall include the following: the name of the member, the member's enrollment identification number, the total degree of Indian blood, and the date of birth. The certificate shall be signed by the Chairperson of the Tribe or by the Vice Chairperson in the Chairperson's absence.

## **CHAPTER 5 DETERMINATION OF BLOOD DEGREE AND CORRECTIONS TO THE BASE ROLL**

**Section 11-5-1: Establishment of Tribal blood degree:** The 1934 Base Roll, the January, 1935 supplement, and the 1936 supplement shall be the authoritative documents to be used in establishing tribal blood degree, provided that errors in blood degree shown on the roll may only be corrected in accordance with this Chapter.

**Section 11-5-2: Blood quantum determined by biological parents:** The degree of Flandreau Santee Sioux blood and total degree Indian blood shall be determined by the applicant's biological parents, the applicant shall be entitled to one half (1/2) of the tribal blood degree and/or Indian blood degree of each parent.

**Section 11-5-3: Proof of blood degree required:** The applicant shall provide proof of tribal and Indian blood degree to the Enrollment Office. Tribal blood degree shall be established by the Flandreau Santee Sioux Base Roll or supplemental base rolls. Proof of other Indian blood shall be established by documentation from that federally recognized Indian tribe claimed which substantiates that the applicant is a lineal descendant and showing the total amount of Indian blood from that tribe.

**Section 11-5-4: Correction of mathematical errors on the Base Roll:** In accordance with the policy set by the special enrollment vote taken on September 15, 1997, by the General Council, the Executive Committee shall have authority to make mathematical corrections to the Base Roll in accordance with the procedures provided by Section 11-5-6 and 11-5-7. Mathematical errors are defined as those errors which are simply mistakes in the computation of blood degrees on the face of the Base Roll and which do not require going to any other source to compute the degree of Indian blood.

**Section 11-5-5: Procedure for correction of mathematical errors on the Base Roll:** Upon passage of this Ordinance, the Enrollment Office shall conduct a review of the Base Roll and its supplements and identify all mathematical errors as the term is defined in Section 11-5-5. Mathematical errors shall be determined by identifying each base enrollee's parent or parents on the roll and comparing the blood degree of the parent with the base enrollee for

proper calculation. If a base enrollee does not have a parent on the Base Roll, the base enrollee's blood degree shall be presumed to be correct. If a mathematical error is identified, the proper calculation shall be determined and the errors shall be presented to the Enrollment Committee for review and correction. The Committee shall correct the error if the error is verified and shall then notify the Enrollment Office of the proposed correction. The Enrollment Office shall identify each tribal member descendant of the base enrollee whose blood degree will be affected by the correction and notify the member and the base enrollee if living, of the proposed correction. The member shall be given an opportunity to respond to the proposed correction by requesting a hearing on the proposed correction within 15 days of notification. If the member requests a hearing on the proposed correction within 15 days of notification, a hearing shall be scheduled and held before the Enrollment Committee who will make the determination on whether to approve the proposed correction. A member who is adversely affected by a correction may appeal the decision of the Enrollment Committee in accordance with Chapter 7. If the member does not request a hearing within 15 days of notification, the Enrollment Committee shall make the proposed correction. Once the Enrollment Committee makes the proposed correction, the Executive Committee shall approve the same by resolution. The Enrollment Office shall properly notify the members affected by the change and the Bureau of Indian Affairs in writing by certified mail.

**Section 11-5-6: Base Roll blood degree corrections:** Any member or a descendent of a person listed on the Base Roll and its supplements may petition in writing to the Bureau of Indian Affairs for a correction to his or her blood degree based on errors in an ancestor's Base Roll blood degree. Petitions for correction to blood degree shall be handled by the Bureau of Indian Affairs but the Enrollment Office may assist the member with documentation and preparation of the petition.

**Section 11-5-7: Correction of errors in blood degrees outside of Base Roll:** If a member believes that his or her blood degree or the blood degree of his or her minor child has been miscalculated or if the Enrollment Office staff determines that a member's blood degree has been miscalculated, a request for correction shall be submitted to the Enrollment Committee for review. If the Enrollment Office staff proposes the correction, the individuals affected by the correction shall be notified and granted a hearing before the Committee if requested. The Committee shall review the proposed correction and all supporting documentation and determine whether the blood degree has been miscalculated. If the Committee does determine that the blood degree was miscalculated, the Committee shall correct the blood degree and the Executive Committee shall approve the same by resolution. The Enrollment Office shall notify the member in writing, and document the correction in the member's file. The member has the right to appeal the Committee's decision in accordance with Chapter 7.

## **CHAPTER 6 ADOPTIONS, RELINQUISHMENTS, DUAL ENROLLMENT, AND DISENROLL**

**Section 11-6-1: Adoptions:** Adoption into the Tribe of non-members and of adopted children of tribal members is hereby prohibited. Any valid adoptions approved in accordance

with previous tribal ordinances shall remain effective. Members who have been validly adopted into the Tribe under prior Ordinances authorizing such adoptions shall not be entitled to the Flandreau Santee Sioux blood degree of their adoptive parents and their children shall not be entitled to enrollment into the Tribe.

**Section 11-6-2: Relinquishment:** Any member of the Tribe may relinquish his/her enrollment with the Tribe by submitting a relinquishment form to the Enrollment Committee. The form of the relinquishment form shall be prescribed by the Committee and shall be signed and notarized. The relinquishment shall become final upon approval of the Enrollment Committee and resolution of the Executive Committee. Upon relinquishment, the former member shall forever be barred from future enrollment with the Tribe. Prior to approval of the resolution relinquishing the member from the Tribe, the Enrollment Office shall notify the member in writing of the prohibition against re-enrollment with the Tribe. Upon relinquishment, the former member shall be removed from the membership rolls of the Tribe.

**Section 11-6-3: Conditional relinquishment authorized:** Conditional relinquishment shall be authorized. A member may relinquish his or her enrollment upon the condition that he or she is accepted into membership with another Tribe. The member's relinquishment shall become effective upon enrollment with another Tribe, and, once effective, shall bar the member from future enrollment with the Tribe as provided in Section 11-6-2. Conditional relinquishment shall be by approval of the Committee and resolution of the Executive Committee. If the member is not accepted into the membership of the other tribe the relinquishment shall not be effective. It shall be the relinquishing member's duty to inform the Enrollment Office of the progress of the application for enrollment into the other tribe. Conditional relinquishments shall be effective for a period not to exceed one year, at which point the Enrollment Committee may terminate the member's membership unless the member informs the Enrollment Office of his/her wish to revoke the conditional relinquishment. However, if a minor's membership is terminated due to the failure of his or her parent(s) or guardian to revoke conditional relinquishment within one year, the minor may apply to the Enrollment Committee to resume membership, so long as such a request is made within one year of the minor reaching adulthood. The Enrollment Committee shall resume the minor's membership upon an adequate showing of parental or guardian negligence. The burden shall be on the minor to show negligence on the part of his/her parent(s) or guardian.

**Section 11-6-4: Dual Enrollment:** Dual enrollment as that term is defined in Chapter 1 is hereby prohibited. If it comes to the attention of the Enrollment Office or the Enrollment Committee that an individual is dually enrolled, the Committee shall notify the individual, or the individual's parents or legal guardian if the individual is a minor, that he or she has the option to relinquish his or her enrollment with the Tribe or with the other tribe that he or she is dually enrolled in. If the individual chooses to relinquish his or her enrollment with the Tribe, he or she shall do so in the manner prescribed by Section 11-6-2. If the individual chooses to relinquish enrollment with the other Tribe, he or she will be notified that he or she has ninety days within which to do so. If the relinquishment is not complete within those

ninety days, the individual shall be subject to disenrollment from the Tribe as provided in Section 11-6-5.

**Section 11-6-5: Disenrollment:** A member of the Tribe may be disenrolled upon a showing by clear and convincing evidence:

- (1) That the member was not eligible for enrollment as provided in the Constitution or laws of the tribe at the time of his or her enrollment and was enrolled on the basis of mistake of law or fact; or
- (2) That the member was enrolled on the basis of misinformation or fraud concerning any evidence, application or data relevant to enrollment eligibility presented in connection with the application for enrollment; or
- (3) The member is enrolled with another federally recognized tribe or is currently recognized as a member of another federally recognized Indian Tribe for the purpose of receiving benefits from that Tribe.

**Section 11-6-6: Procedure for Disenrollment:** An action to disenroll a member may be brought by one of the following methods:

- (1) Petition by twenty-five percent (25) percent of the General Council;
- (2) Petition by a member of the Enrollment Committee; or
- (3) Petition by a member of the Executive Committee.

The individual or petitioner seeking the action to disenroll shall present evidence by Petition showing that the individual(s) meets the grounds for disenrollment as set out in Section 11-6-5. The Petition shall be presented to the Secretary of the Tribe. The Secretary shall submit the Petition to a special panel which shall be appointed by the Executive Committee upon receipt of the Petition, and which shall consist of one member of the Enrollment Committee, one member of the Executive Committee and one tribal member, provided that no person selected for the panel shall be a relative of the individual or individuals against whom the Petition to disenroll has been brought. The special panel shall schedule a hearing and give at least thirty (30) days notice to the individual(s) affected. The individual shall be entitled to be present at the hearing and present evidence in his or her own behalf. At the hearing the special panel shall take evidence regarding the grounds for disenrollment. The special panel shall make a determination in accordance with the clear and convincing evidence standard required by Section 11-6-5 of whether the individual meets the grounds for disenrollment. Disenrollment shall be by recommendation of the special panel and resolution of the Executive Committee. Any member affected by the terms of this provision shall have the right to appeal any decision in accordance with Chapter 7 of this Ordinance and if an appeal is filed within the time limits set out in 11-7-1, the disenrollment shall not become effective until the appeal is final.

## **CHAPTER 7 HEARINGS AND APPEALS**

**Section 11-7-1: Hearing/Appeal.** Any individual who is deemed ineligible for enrollment, who is disenrolled, or whose blood degree has been adversely adjusted has the right to an appeal and hearing. The individual desiring a hearing must request one in writing to the Enrollment Office within 30 days after being notified of the adverse decision. The thirty (30) days shall begin from the date of the individual's signed receipt of the certified notice of the decision, the date of the individual's refusal of the certified notice of the adverse decision, the date the certified notice of the adverse decision is returned as unclaimed after a second notice, or a certified notice returned for reason of an improper address if the improper address was provided by the applicant. The burden is on the applicant to provide the enrollment office with a current address for certified notices and to accept any certified notice attempted by the enrollment office. If no hearing request is received within the 30 day timeframe, the adverse decision shall become final.

All appeals shall be to the Executive Committee. Upon written request for a hearing, the Enrollment Office shall notify the Enrollment Committee and the Executive Committee of the appeal. The Executive Committee shall schedule a hearing within 30 days of receipt of a notice of appeal. Each member of the Executive Committee shall be notified that the purpose of the scheduled meeting will be to hear an enrollment appeal.

At the hearing, the individual shall be entitled to present evidence regarding his or her case and may be represented by counsel at his/her own expense. The Enrollment Committee shall be present at the hearing in order to present the grounds for its decision, or in the case of a disenrollment appeal, the special panel set out in Section 11-6-6 shall be present at the hearing in order to present the grounds for disenrollment.

After the hearing, the Executive Committee shall make a decision regarding the appeal.

**Section 11-7-2: Notice.** When an individual requests a hearing under Section 11-7-1, the Enrollment Office shall provide written notice of the hearing to the individual by certified mail, not less than fifteen (15) days before the hearing. The notice shall contain the reason for the hearing, describe evidence to be presented, and shall advise the participant of the right to be represented, and to present witnesses in his/her defense.

**Section 11-7-3: Final Decision on Appeals.** The decision of the Executive Committee on an appeal shall be final.

This Title was passed by the Executive Committee on the 12th day of January, 2011, by Resolution # 11-02, dated January 12, 2011.

This Title was reviewed and favorably approved by the Bureau of Indian Affairs on \_\_\_\_\_, 2011.