

# TITLE 15 ENROLLMENT

This ordinance was recommended unanimously by the Enrollment Committee. This Committee was involved in the drafting and was using it as a practical guide for enrollment criteria and procedures prior to its official acceptance. The Committee has stated that they believed the various standards for documentation helped make their decisions more soundly based, with less opportunity to be challenged as arbitrary, or favoring certain individuals or families. The ordinance was passed at the 1989 General Assembly.

## Chapter 01. Enrollment

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**Sec. 15.01.001**      **Purposes**

To establish procedures to compile a tribal enrollment roll to supplement the roll established as Judgment Roll by the Act of August 19, 1965 (PL 89-130). This roll consist of the names of all persons who meet the definition of Tlingit or Haida Indians as defined in the constitution of the Central Council of Tlingit and Haida Indian Tribes of Alaska (CCTHITA hereafter). The responsibility for the preparation and maintenance of this roll shall rest with the Central Council.

**Sec. 15.01.002**      **Definitions**

- A. Active/Inactive Rolls:** The "**active**" roll means the total citizenship roll of living persons, whereas the "**inactive**" role contains the names of those tribal citizens who have become deceased since the first approved Base Roll or relinquishment.
  
- B. ANCSA Rolls:** This means a roll maintained by the ANCSA Corporations and does not automatically enroll a person in the Tlingit and Haida Tribal rolls. The ANCSA rolls are generally comprised of those persons deemed eligible for shareholder status under the Alaska Native Claims Settlement Act, Pub. L. 92-203 of 1971, 85 Stat. 690 at Sec. 5 (a) (c) and Amendments, Pub. L. 94-204 of 1976, at 89 Stat. 1145 and Amendments of 1987.

- C. Base Roll**<sup>1</sup>: Means the roll prepared by the Secretary of the Interior pursuant to Section 8 of the Act of June 19, 1935 (49 Stat. 388) (i.e., the Congressional Act authorizing the Tlingit and Haida Tribes to file Judgment claims), as amended by the Act of August 19, 1965 (79 Stat. 543), (as defined in the Amendments to the Rules of Election, Rule 21 (k), (1987), with explanation added).

Historical Note: The 1935 Judgment Act, Sec. 1, states that, ". . .the Tlingit and Haida Indians of Alaska shall be defined to be all those Indians of the whole or mixed blood of the Tlingit and Haida Tribes who are residing in Russian America, now called the Territory of Alaska, in the region known and described as Southeastern Alaska, lying east of the one hundred and forty-first meridian."

Sec. 7 then adds, ". . . Each tribal community shall prepare a roll of its tribal citizenship, which roll shall be submitted to a Tlingit and Haida Central Council for its approval. The said Central Council shall prepare a combined roll of all communities and submit it to the Secretary of the Interior for approval. Approval of the roll by the said Secretary---shall operate as final proof of the right of such Indian communities to share in the benefits of this Act.

The 1965 Amendment deleted Sec. 1, 7 and 8, and substituted new sections which read, at Sec. 1: ". . . the Tlingit and Haida Indians of Alaska shall be defined to be all those Indians of Tlingit and Haida blood who reside in the various local communities or areas in the United States or Canada.

New Sec. 8 stated, ". . .the Secretary of the Interior, pursuant to such rules and regulations as he may prescribe, is authorized and directed to prepare a roll of all persons of Tlingit or Haida blood who reside in the various local communities or areas of the United States or Canada on the date of this act."

- D. Enrollment Committee**: Means the body of the Tribe vested with authority to pass on enrollment matters.
- E. Current Citizenship Roll**: Means the Base Roll and the Supplemental Roll taken together. All living persons that can demonstrate Tlingit and/or Haida ancestry shall be eligible for citizenship. Direct descendants of citizens, whose names appear on the Base Roll shall be automatically eligible for citizenship. All lineal descendants of citizens shall be eligible for citizenship.
- F. Citizenship or membership**: Means the applicant certified by the CCTHITA Tribal Enrollment Committee.

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<sup>1</sup> The Base Roll is also known as the Judgment Roll.

- G. Sponsor:** Means a parent, recognized guardian, friend, next of kin, spouse, executor or administrator of estate or other person who files an application for enrollment on behalf of another person.

**Sec. 15.01.003            Application for Enrollment Procedures**

- A.** Application forms will be furnished to individual applicants on request to the Central Council.
- B.** Application for enrollment must be filed with the Enrollment Officer of the Central Council or through the appropriate community enrollment representative.
- C.** Applications for enrollment may be received at any time.
- D.** Among other information each application shall contain:
  - 1.** Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed, and
  - 2.** If the application is filed by a sponsor, the name, address and relationship of sponsor to the applicant.
- E.** In the preparation of a roll of Tlingit and Haida Indians of Alaska, sponsors may file applications on behalf of minors, mentally incompetent or other persons in need of assistance, members of the armed services of the United States, or any members of their immediate families stationed outside the limits of Alaska.

**Sec. 15.01.004            Eligibility**

- A. Proof of Eligibility**
  - 1. Burden of Proof:** The burden of proof rests upon the applicant to establish his/her eligibility for enrollment. The burden necessary to establish a presumption of eligibility shall be a finding that there is probable cause to believe that the applicant is an eligible citizen.
  - 2. Rebuttal:** To sustain a finding that rebuts the presumption of eligibility thus established the committee would have to find clear and convincing rebuttals evidence that the applicant is not a citizen. Factors which may be considered include, but are not limited to affidavits of rebuttable staff, or other persons acquainted with the clan family genealogy, and blood tests or other proven, credible scientific tests which disestablish the claim of natural parentage.

**B. Documentary Evidence.** Documentary evidence, such as birth certificate, death certificates, baptismal records, copies of probate findings or affidavits, may be used to support a claim for enrollment. Records of the Bureau of Indian Affairs may be used to show that eligibility was established. The Enrollment Committee shall record whether their approval of the applicant's tribal citizenship is based on one of the following three groups of evidence or if it is based on group 4 or group 5 evidence and testimony of Central Council staff pursuant to Section 3, Presumption, following:

1. **Group 1 Evidence:** Group 1 evidence shall be; Birth Certificates, Death Certificates, Baptismal Records, copies of legal findings of record such as those of probate, hearings, or other court records, or BIA records which show a direct lineage to the applicant as a descendant.
2. **Group 2 Evidence:** Group 2 evidence shall be the same documents as Group 1 but which show an indirect or corollary lineage to the applicant, as in the case of uncles, aunts, cousins, or other relatives not direct ascendant.
3. **Group 3 Evidence:** Group 3 evidence shall be other legal documents of court, agency, hearings, or DNA testing findings and conclusions of law and fact which establish lineage of Tlingit and Haida citizenship.

**C. Presumption of Probable Cause.** A presumption is established that there is probable cause to believe an applicant is eligible to be a Tlingit or Haida Tribal citizen when:

1. The Central Council Department of Health and Human Services staff has confidential records on the applicants lineage, and
2. The staff person shall testify to the fact that applicant person is a person of Tlingit and Haida lineage. Based on their having investigated confidential records and
3. Shall also testify whether they have supportive evidence, in addition to confidential documentary records, and shall state the general nature thereof, and whether or not the supportive evidence should be deemed confidential, and if not; they may answer questions to the Committee of a general nature, and
4. Shall testify as to whether the basis of their confidential knowledge is:
  - a. **Group 4 Evidence:** Group 4 evidence shall be deemed to be other confidential documentary evidence the CCTHITA staff

have acquired on the basis of their own investigations, or documents which establish lineage to the satisfaction of the Department of Health and Human Services Manager and the Manager so certifies.

- b. **Group 5 Evidence:** Group 5 evidence shall be other confidential evidence the Department has acquired which the Manager believes generally, though not completely, establishes the lineage of the applicant as a Tlingit and Haida eligible person.
  - (1) Group 5 evidence shall require the committee to find other evidence in addition to the certification that Group 5 evidence exists in order to establish a presumption based on probable cause.
  - (2) To establish a presumption of probable cause based on testimony of Group 5 evidence the Committee must find some supplementary evidence which helps establish a presumption of lineage.

#### D. Changes

- 1. **Amendments:** The roll shall be amended from time to time as necessary to correct errors, to show changes in names, address, or other information showing entitlement to recognition or reflect determination of eligibility and ineligibility, for births and designation of deceased, and for such other purposes as may be required.
- 2. **Inactive Roll:** Upon a determination by the Enrollment Committee that a tribal citizen has become deceased, their names shall be labeled as deceased, placed on the Inactive Roll and maintained in perpetuity.
- 3. **Proof of Death:** The Enrollment Committee shall require the same groups of evidence to sustain a presumption or rebuttal of death as are used for proof that an applicant is a living citizen. These categorical groupings of types of documentary, certified, or testimonial and other evidence are set out at 15.01.004.

- E. **Descendants Eligible.** All persons who are descendants of persons who were members under the base roll and/or supplemental citizenship rolls are eligible for citizenship as a Tlingit and/or Haida Indian.

#### Sec. 15.01.005 Enrollment Committee

- A. **Appointment:** The members of the Enrollment Committee shall consist of five delegates whom the President of the Central Council shall appoint. The Enrollment Committee shall consist of members whose residences are distributed throughout the geographic areas of Community Council's which are representative of Tlingit and Haida origins.
- B. **Quarterly Meetings:** The Enrollment Committee shall meet quarterly.
- C. **Duties:** The Enrollment Committee shall serve to certify eligibility and to review appeals. Appeals will be considered only if new and relevant facts are presented in writing at least one month prior to the Enrollment Committee meeting.
- D. **Recommendations:** The Enrollment Committee may recommend guidelines to the Executive Committee of Central Council concerning citizenship requirements.

**Sec. 15.01.006 Relinquishment**

- A. **Descendants Not Affected:** A citizen may relinquish his or her citizenship by submitting a statement to that effect in writing to the Enrollment Committee. Such action will not affect the status of descendants of such non-citizen.
- B. **Readmission Upon Petition:** Persons who have relinquished their citizenship pursuant to 15.01.006 (1) may be readmitted to full citizenship upon petition to the Enrollment Committee.

**Sec. 15.01.007 Dis-enrollment and Challenges to Enrollment**

- A. **Resolution Necessary:** All action to disenroll citizens will be in the form of a resolution for the record, passed by the governing body, and shall contain the facts of the situation.
- B. **Procedures:** Criteria governing procedures for disenrollment and protects to enrollment shall be developed by the Enrollment Committee in accord with standard Administration Procedures Act requirements of notice and due process.
- C. **Challenging Eligibility:** Any enrolled citizen of the Tribe may challenge the eligibility of an applicant based on clear and convincing rebuttal evidence indicating lack of eligibility. (Ref. Eligibility section of this Title).
- D. **Grounds for Disenrollment:** The only grounds for disenrollment shall be on the basis of false information or material error which affects whether the

person is, in fact, a Tlingit and Haida Indian and which would disqualify their citizenship.

- E. Written Challenges, Time and Procedure:** A challenge must be in writing, submitted to the President following application and prior to final determination of its acceptance or rejection by the Enrollment Committee. The Enrollment Committee shall accept any challenges received within thirty (30) days from such application date and consider the sufficiency of challenging evidence.
- F. Right to Appeal:** Any applicant whose application is denied shall have the right of appeal to the CCTHITA Tribal Court. Appeals shall be in the form of a resolution to accept or reject the applications for citizenship based on new and relevant information. Decisions made on such an appeal shall be final.

#### **Sec. 15.01.008            Enrollment of Children**

- A. By Either Parent or Sponsor:** Children whose fathers are not enrolled may be enrolled at the discretion of the mother, and vice versa, or by a sponsor. However, it is a Tlingit or Haida child's birthright to be an enrolled tribal citizen. That birthright cannot be disclaimed or waived by anyone except the child upon reaching his/her majority.
- B. Adoptions to Others:** A child who is adopted outside the tribes does not lose his or her right to enrollment if lineal descent can be proven. (Ref. to "Eligibility" under this title).
- C. Adoption from Others:** A child who is adopted by tribal citizens who is not otherwise eligible for Tlingit and Haida citizenship shall not be enrolled.
- D. ICWA Applies and Confidentiality:** Provisions of the Indian Child Welfare Act (p. 95-608) shall apply as appropriate and shall be interpreted as to individual applicability by the Central Council. In keeping with Indian Child Welfare Act and sound administrative practice all information about adopted children will be kept confidential and shall be protected at all times. (Ref. Confidentiality requirements of this Title).
- E. Enrollment by Sponsor:** Parents are primarily responsible for application for citizenship of newborns. However, if this has not been done by parents, and consistent with application for Enrollment Procedure at section 15.01.003 of this Title, a sponsor may enroll another person. X-ref: Definition of "Sponsor".

#### **Sec. 15.01.009            Administration**

- A. Records:** All citizenship enrollees will be accounted for with the present storage and retrieval system available to Central Council which already contains the Judgment Roll prepared in accordance with the Act of August 19, 1965. Such roll is accepted henceforth as the Citizenship Roll.
- B. Enrollment Numbers:** The enrollment number shall be included in any subsequent identification card system adopted by the Central Council along with other pertinent data.
- C. Number Issuance:** Enrollment numbers shall be issued in sequence using a six digits, beginning with A000001, A000020, and so forth. The roll shall include tribal citizens born prior thereto who for any reason may not be enrolled and who are otherwise eligible. (Ref. "Eligibility" section under this title). All eligible Tlingit and Haida citizens shall be issued citizenship cards.
- D. Application Form:** An application form shall be used which reflects information necessary to determine an applicant's eligibility for enrollment. It shall be clear and easily understood. Eligibility shall be determined on the basis of information furnished with the application.
- E. Privacy Act:** A statement explaining Privacy Act provisions shall be included with each application. The Central Council will establish procedures to assure internal and external confidentiality.