

current by striking therefrom the names of persons who have relinquished their membership in the Band as provided in § 47.17 and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Enrollment Committee, and by adding thereto the names of children who meet the qualifications for membership in the Band as set forth in this part.

**§ 47.16 Eligibility for enrollment of children born after August 21, 1957.**

(a) Children possessing  $\frac{1}{32}$  or more degree Eastern Cherokee Indian blood born between midnight August 21, 1957, and midnight July 15, 1959, the date specified in the announcement, may be enrolled under the provisions of § 47.8 provided applications for enrollment were filed prior to August 14, 1963.

(b) Children possessing  $\frac{1}{32}$  or more degree of Eastern Cherokee Indian blood born between midnight July 15, 1959, and August 14, 1963 may be enrolled as provided in § 47.16(d) provided applications for enrollment were filed prior to August 14, 1963.

(c) Children possessing  $\frac{1}{16}$  or more degree Eastern Cherokee Indian blood born after August 14, 1963 or whose applications for enrollment were filed after that date may be enrolled as provided in § 47.16(d).

(d) In order for a child to be enrolled under paragraph (b) or (c) of this section, either:

(1) An application to have the child enrolled must be filed on behalf of the child by the parent or recognized guardian or person responsible for his care, which application shall be accompanied by the child's birth certificate or by other evidence as to the eligibility of the child for enrollment as the Enrollment Committee may require, which application must be filed within one year from the date of birth of such child, or

(2) In the absence of such application, the Tribal Enrollment Committee may on its own motion, proceed to enroll any eligible child upon receipt by it of such evidence as shall satisfy the Committee as to the eligibility of the child to be enrolled, within one year from date of birth of such child.

[20 F.R. 8315, Aug. 14, 1963, as amended at 20 F.R. 9326, July 8, 1964]

**§ 47.17 Relinquishment of membership.**

Any member of the Eastern Band of Cherokee Indians may relinquish his

membership in the Band by filing notice in writing that he no longer desires to be enrolled as a member of the Band. On receipt of such notice the name of the members shall be stricken from the roll and he shall no longer be considered as a member of the Band and shall not be entitled to share in any use or in any distribution of tribal assets which may be made in the future to the enrolled members of the Band.

**PART 48—ENROLLMENT OF INDIANS OF THE SAN PASQUAL BAND OF MISSION INDIANS IN CALIFORNIA**

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**AUTHORITY:** The provisions of this Part 48 issued under R.S. 463, 465; 25 U.S.C. 2, 9.

**SOURCE:** The provisions of this Part 48 appear at 25 F.R. 1830, Mar. 2, 1960, unless otherwise noted.

**§ 48.1 Purpose.**

The regulations in this part shall govern the enrollment of persons in the San Pasqual Band of Mission Indians in California as of January 1, 1959.

**§ 48.2 Definitions.**

(a) "Secretary" means the Secretary of the Interior.

(b) "Commissioner" means the Commissioner of Indian Affairs.

(c) "Director" means the Area Director, Sacramento Area Office.

(d) "Field Representative" means the Area Field Representative, Riverside, California.

(e) "Band" means the San Pasqual Band of Mission Indians.

(f) "Enrollment Committee" means a committee of three (3) members whose names appear on the June 30, 1910, Census Roll of the San Pasqual Band, to assist in enrollment.

(g) "Census Roll" means the June 30, 1910, Census Roll of the San Pasqual Band of Mission Indians.

§ 48.3 Preparation of roll.

The Director shall prepare and submit for approval by the Secretary a roll of the members of the Band.

§ 48.4 Application for enrollment.

A person who believes that he or she, or a minor or mental incompetent is entitled to enrollment with the Band, may, within ninety (90) days from the effective date of these regulations file with the Field Representative a written application for enrollment in this Band. Application forms may be obtained from the Field Representative or a member of the Enrollment Committee. The form of application shall be prescribed by the Director. The execution of each application shall be witnessed by two (2) disinterested persons who are not members of the household of the applicant. An application on behalf of a minor or mental incompetent shall be executed by a parent, legal guardian, or other person responsible for his care. If the Director has knowledge of a minor or mental incompetent for whom an application has not been filed within the 90-day period, he shall file an application for that person and submit it to the Enrollment Committee. Each application shall contain the following information:

(a) The name and address of the applicant, and if the applicant is a minor or mental incompetent; the name, address, representative capacity and blood relationship of the person executing the application on behalf of the minor or mental incompetent.

(b) The date and place of birth of the applicant.

(c) The applicant's degree of Indian blood and degree of Indian blood of the Band.

(d) Date and number of land assignment approved by the Bureau of Indian Affairs.

(e) If the applicant has ever been allotted, enrolled or affiliated with another reservation, the name of the reservation where allotted, enrolled or affiliated and the date of relinquishment of allotment, enrollment or reservation affiliation.

(f) The name and degree of Indian blood of each parent of the applicant, the degree of Indian blood of the Band, the name of the tribe or band with which

each parent of the applicant is or was enrolled or affiliated and the names and addresses of any brothers and sisters of the applicant who may have filed applications for enrollment with the Band.

(g) If the applicant is enrolled on approved roll of Indians of California, the number thereon of the applicant.

[25 F.R. 1830, Mar. 2, 1960, as amended at 25 F.R. 3711, Apr. 28, 1960]

§ 48.5 Persons to be enrolled.

The names of persons in any of the following categories who were alive on January 1, 1959, shall be placed on the membership roll of the Band, provided he is not an enrolled member of or affiliated with some other tribe or band.

(a) Indians whose names appear as members of the Band on the Census Roll.

(b) Descendants of Indians whose names appear as members of the Band on the Census Roll, provided such descendants possess one-eighth ( $\frac{1}{8}$ ) or more degree of Indian blood of the Band.

(c) Indians not included in the categories set out in paragraphs (a) and (b) of this section who can furnish sufficient proof to establish that they are  $\frac{1}{8}$  or more degree Indian blood of the Band.

(d) The burden of proof rests upon the applicant to establish that he is of the degree of Indian blood of the Band as claimed in the application.

(e) If an Indian who applies for enrollment under the provisions of paragraph (a), (b), or (c) of this section has received in his own right an allotment or is enrolled as a member with some other tribe or band and has not relinquished such allotment or enrollment prior to January 1, 1959, such person shall not be enrolled. Ownership of an allotment or an interest in an allotment acquired through inheritance shall not, however, be a bar to enrollment.

(f) A person who meets the requirements of paragraph (c), (b), or (c) of this section, but whose name has been carried on the census roll of another reservation shall be declared ineligible for enrollment unless he can establish that he has been affiliated with the San Pasqual Band for a continuous period of at least one year immediately prior to January 1, 1959, evidenced by residence on the reservation or through active participation in tribal affairs such as attendance at tribal meetings, and being permitted to vote on matters relating to the San Pasqual Reservation.

Should an applicant establish his eligibility for enrollment his membership claim at the other reservation must be relinquished in writing prior to approval of his enrollment with the San Pasqual Band. Notice of relinquishment must be submitted to the tribal representatives of both reservations involved, the Riversid; Area Field Office and the Sacramento Area Office.

#### § 48.6 Enrollment Committee election.

A person who is twenty-one (21) years of age or older and believes that he is a member of the Band, shall be entitled to vote at a time and place and in a manner designated by the Band or Director, to elect three (3) persons, whose names appear on the Census Roll, to serve as members of the Enrollment Committee and two (2) persons to act as alternates to the Committee. The three (3) persons receiving the highest number of votes shall constitute the Enrollment Committee of the Band, and the persons receiving the fourth and fifth highest number of votes shall serve as alternate members of the Committee. The person receiving the highest number of votes shall be the chairman; the person receiving the next highest number of votes shall be the secretary.

#### § 48.7 Review of applications by Enrollment Committee.

The Field Representative shall refer duly filed applications for enrollment to the Enrollment Committee. The Enrollment Committee shall review each such application and may require an applicant to furnish additional information in writing or in person to assist the Enrollment Committee to make a recommendation. The Enrollment Committee shall file with the Director, through the Field Representative, those applications which it approves and with these applications not approved shall submit a separate report stating reasons for disapproval. The applications, whether approved or disapproved, shall be filed with the Director within thirty (30) days from receipt of the applications by the Committee.

#### § 48.8 Determination of eligibility and enrollment by Director.

The Director shall review the reports and recommendations of the Enrollment Committee and shall determine the applicants who are eligible for enrollment in accordance with the provisions of

§ 48.5 The Director shall transmit for review to the Commissioner and for final determination by the Secretary, the reports and recommendations of the Enrollment Committee relating to applicants who have been determined by the Director to be eligible for enrollment against the report and recommendations of the Enrollment Committee, and the reports and recommendations of the Enrollment Committee relative to applicants who have been determined by the Director not to be eligible for enrollment against the reports and recommendations of the Enrollment Committee, with a statement of the reasons for his determination.

#### § 48.9 Appeals.

If the Director determines that an applicant is not eligible for enrollment in accordance with the provisions of § 48.5 he shall notify the applicant in writing of his determination and the reasons therefor. Such applicant shall then have thirty (30) days from the date of the mailing of the notice to him to file with the Director an appeal from the rejection of his application, together with any supporting evidence not previously furnished. The Director shall forward to the Commissioner the appeal, supporting data, and his recommendation thereon, and the report and recommendation of the Enrollment Committee on the application.

#### § 48.10 Action by the Commissioner.

When upon review the Commissioner is satisfied that the appellant meets the provisions of § 48.5 he shall so notify the appellant in writing, and the Director is authorized to enter his name on the roll. If the Commissioner determines that an appellant is not eligible for enrollment in accordance with the provisions of § 48.5 the appellant shall be notified in writing of his decision and the reasons therefor. The appellant shall then have thirty (30) days from the date of mailing of the notice to file an appeal with the Secretary.

#### § 48.11 Action by the Secretary. roll.

The decision of the Secretary on an appeal shall be final and conclusive and the appellant shall be given written notice of the decision. The Director is authorized to enter on the roll the name of any such person whose appeal has been granted when so directed by the Secretary.

**§ 48.12 Preparation and approval of roll.**

Upon notice from the Secretary that all appeals have been determined the Director shall prepare in quintuplicate a roll of members of the Band, arranged in alphabetical order. The roll shall contain for each person: Name, address, sex, date of birth, and degree of Indian blood of the Band. The Director shall submit the roll to the Secretary for approval. Four (4) copies of the approved roll shall be returned to the Director who shall make one (1) copy available to the Chairman of the Tribal Council and one (1) copy available to the Chairman of the Enrollment Committee.

**§ 48.13 Certificate.**

The Director shall affix a certificate to the approved roll, certifying that the roll, to the best of his knowledge and belief, contains only the names of Indians entitled to enrollment with the Band.

**§ 48.14 Current membership roll.**

The roll shall be kept current by:

(a) Striking therefrom the names of persons who have relinquished in writing their membership in the Band and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Director.

(b) By adding thereto the names of children born after January 1, 1959, who meet the membership requirements set forth in § 48.5.

(c) Corrections to the roll of incorrect dates of birth, degrees of Indian blood, family relationships, etc., may be made by the Director if such corrections are supported by evidence satisfactory to him.

(d) Names of individuals whose enrollment was based on information subsequently determined to be inaccurate may be deleted from the roll, subject to the approval of the Secretary.

(e) It will not be necessary for the Secretary to approve additions, deletions and corrections as covered in paragraphs (a), (b) and (c) of this section. However, before the roll may be used for the distribution of tribal assets it shall be submitted to the Secretary for his final approval.

**§ 48.15 Use of approved roll.**

Unless otherwise directed by Congress, the approved roll shall be used for all official purposes.

**PART 49—PREPARATION OF A ROLL FOR THE DISTRIBUTION OF THE JUDGMENT AWARDED THE QUAPAW TRIBE**

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- 49.1 Definitions.
- 49.2 Purpose.
- 49.3 Eligibility for enrollment.
- 49.4 Application forms.
- 49.5 Filing of applications.
- 49.6 Burden of proof.
- 49.7 Review of applications by Tribal Business Committee.
- 49.8 Action by the Director.
- 49.9 Appeals.
- 49.10 Action by the Secretary.
- 49.11 Preparation and approval of roll.
- 49.12 Director's certificate.
- 49.13 Special instructions.

**AUTHORITY:** The provisions of this Part 49 issued under sec. 1, 73 Stat. 221; 25 U.S.C. 911.

**SOURCE:** The provisions of this Part 49 appears at 24 F.R. 6838, Aug. 22, 1959, unless otherwise noted.

**§ 49.1 Definitions.**

(a) "Commissioner" means Commissioner of Indian Affairs.

(b) "Director" means Area Director, Muskogee Area Office.

(c) "Tribe" means the Quapaw Tribe of Oklahoma.

(d) "Membership Roll" means the membership roll of the Quapaw Tribe forwarded under date of January 4, 1890.

**§ 49.2 Purpose.**

The regulations in this part are to govern the compilation of a roll of persons of the blood of the Quapaw Tribe who were living on July 17, 1959, which roll shall be used for the distribution of the judgment awarded the Quapaw Tribe by the Indian Claims Commission on May 7, 1954, and accrued interest thereon.

**§ 49.3 Eligibility for enrollment.**

Each person of Quapaw blood whose name appears on the Quapaw membership roll forwarded under date of January 4, 1890, and whose membership in the Tribe was then based upon Quapaw blood rather than solely upon adoption who was living on July 17, 1959, and the descendants of such persons who were living on July 17, 1959, may, within six months after the date of the act (on or before January 17, 1960), submit an application for enrollment.

**§ 49.4 Application forms.**

Application forms prescribed by the Secretary may be obtained from the Di-