



## A RESOLUTION OF THE TRIBAL COUNCIL OF THE DELAWARE TRIBE OF INDIANS TO AMEND THE TRIBAL MEMBERSHIP ACT TO INCLUDE PROCEDURES FOR DISENROLLMENT

### RESOLUTION 2015-49

**WHEREAS**, the Delaware Tribal Council is authorized by Article V of the Constitution and Bylaws of the Delaware Tribe of Indians to represent and act in all matters that concern the general welfare of the Tribe; and,

**WHEREAS**, Article II Section 1 of the Delaware Constitution sets forth the basic criteria required to be deemed eligible for membership in the Delaware Tribe as well as granting the Delaware Tribal Council the power to enact ordinances and to establish procedures and regulations governing membership; and,

**WHEREAS**, Section 4(A) of the Tribal Membership Act (Resolution 2000-14 as amended) reaffirms the same criteria set forth by Article II Section 1 of the Delaware Constitution; and,

**WHEREAS**, neither the Delaware Constitution nor the Tribal Membership Act set forth any procedural guidelines for removal of persons from the rolls who do not meet this core criterion but who have been erroneously enrolled by any means mistaken, accidental, misinformed or fraudulent.

**THEREFORE BE IT RESOLVED**, the Delaware Tribal Council adopts this resolution to authorize amending the Tribal Membership Act by adding the following procedures entitled Disenrollment Procedures as subsection B (1-10) under Section 12 Clarification of Existing Tribal Roll.

1. Any member of the Tribe may be disenrolled at any time if it is discovered or determined that such individual does not meet or satisfy the qualifications for membership in the Tribe as set forth in Article II of the Delaware Constitution and the Delaware Tribal Membership Act (Resolution 2000-14), as amended .
2. A disenrollment inquiry may be initiated by the Enrollment Department based upon the lack of sufficient documentation in the members enrollment file to establish that a person satisfies the criteria for membership under the Delaware Constitution and the Membership Act, or based upon any verifiable information discovered or made known to the Enrollment Department that an individual does not meet the criteria under the Delaware Constitution and the Membership Act, whether such enrollment was based upon inadequate or fraudulent or erroneous documentary submissions, or based upon clerical error, or for other similar reasons. The burden of proof in disenrollment proceedings shall, at all times, reside with the Enrollment Department.
3. In the event the Enrollment Department determines that a person does not satisfy the requirements for Tribal membership, the Enrollment Department shall notify and convene with the Enrollment Oversight Committee which shall consist of the Enrollment Director and clerk(s), Tribal Manager, and at least one but not more than two Tribal Council members. The Enrollment Department shall present its findings to the Enrollment Oversight Committee. If the Enrollment Oversight Committee agrees with these findings, it shall then authorize the Enrollment Director to provide notice to the affected person (and any lineal descendants who may be impacted by the disenrollment proceedings) of the intent to take action consistent with the findings.

The notice shall be in writing and shall include (i) a summary of the grounds for the proposed disenrollment along with any documentation relied upon by the Enrollment Oversight Committee and (ii) the date on which a resolution shall be presented to the Tribal Council for such disenrollment (not less than 60 days from date of notice if the person fails to respond to the notice), and (iii) the procedures under which the member may oppose such disenrollment.

4. Any notice of a pending disenrollment shall be served on the person by certified mail, with return receipt requested, or through certified personal service. Notice shall be sent to the last known recorded address in the person's membership file. Reasonable efforts SHALL be made to locate the affected person up to and including address searches and attempted contact with known family members. If notice is unable to be served due to bad address or if the member refuses or neglects to sign for such notice, and the Enrollment Department has documented all reasonable efforts made to contact the person satisfactory to the Enrollment Oversight Committee, then the Enrollment Oversight Committee may proceed without further notice being required.

5. Following notice as set forth herein, a person subject to possible disenrollment shall have 30 days from date of receipt of certified letter to submit a written appeal along with any documentation the person believes is relevant to refute such disenrollment recommendation and/or may request a hearing before the Enrollment Oversight Committee to refute disenrollment recommendation. Such appeals shall be sent certified mail and shall be addressed to the attention of the Enrollment Director. The Enrollment Oversight Committee shall then have up to 30 days from the day of receipt of this information as recorded on certified mail return receipt or tribal mail log to reconvene and examine this evidence or to grant the requested hearing.

6. A person subject to disenrollment may be represented in such proceedings by private legal counsel, and may also be accompanied by family members or others of his or her choosing at all proceedings hereunder.

7. Should the person who is subject to possible disenrollment fail to submit a written response or fail to make a request to appear before the Committee within the timeframe allowed, the Enrollment Oversight Committee may proceed immediately to a decision concerning that person's disenrollment by preparing a resolution to be presented to the Tribal Council no earlier than the date set forth in the written notice.

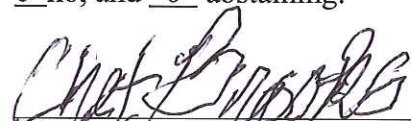
8. Disenrollment of any person shall require a written resolution by no fewer than four members of the Tribal Council. Once the Council has issued a decision approving or disapproving a person's disenrollment, notice of such decision shall be sent to the person adversely affected by such decision and the person's direct lineal descendants who may be impacted by the decision. Such notice shall include a letter of explanation signed by both the Enrollment Director and the Tribal Council Secretary and shall contain a copy of the Tribal Council resolution. Service of such notice shall be made on the affected person by certified mail, with return receipt requested, or through certified personal service.

9. Once a person is disenrolled all of his or her direct lineal descendants may also be removed. This may be done without further notice once the original disenrollment has been processed; provided that the direct lineal descendants were sent a copy of the original notice described in paragraph 3.

10. The decision of the Tribal Council in any appeal hereunder shall be final and non-appealable to any court or tribunal except in regard to due process which may be appealed to the Delaware Tribal Court by contacting the Court Clerk for filing instructions.

### CERTIFICATION

I hereby certify that the foregoing was considered by the Delaware Tribal Council of the Delaware Tribe of Indians and adopted this 7<sup>th</sup> day of October, 2015 with a vote of 6 yes, 0 no, and 0 abstaining.

  
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Chester Brooks, Chief

  
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Dr. Nicky Kay Michael, Secretary

