

Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 02-0731-03

Adoption of Enrollment Commission Regulations

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.); and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council adopted amendments to the Enrollment Ordinance which superseded the prior ordinance and resulted in renumbering from ordinance # 97-200-01 to # 02-200-01; and

WHEREAS, the adopting resolution, # 02-0529-03, directed the Enrollment Commission to develop regulations to implement the amendments in the new ordinance; and

WHEREAS, the Enrollment Commission has developed regulations to implement the new ordinance and approved those regulations at its July 23, 2002 meeting; and


WHEREAS, these regulations have been presented to the Tribal Council for review and action;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts the *Enrollment Regulations*, regulation # R200-01:EC, which consists of the following Chapters:


1. Application for Membership
2. Records
3. Release of Membership Information
4. Processing Indian Child Welfare Act and Juvenile Code Cases

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on July 31, 2002, at the Little River Band's Community Center in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court
Legal Department

ENROLLMENT REGULATIONS

Regulation # R200-01:EC

Chapter 1. Application for Membership

Regulation # R200-01:EC-01

Section 1. Authority; Purpose

1-1. *Authority.* In accordance with Section 3 and section 4.03 of the Enrollment Ordinance, # 97-200-01, the Enrollment Commission hereby promulgates these regulations for applying for and the review of applications for membership of the Little River Band of Ottawa Indians.

1-2. *Purpose.* The Enrollment Office and Enrollment Commission is resolved in being responsive to the people whom it serves, namely, the Tribal membership. The Enrollment Office is held accountable for establishing accurate, consistent and permanent records for the nation and its constituency. Many programs and services offered by the Little River Band Tribe, as well as local, state and federal programs, also depend on the certification process that the Enrollment Office implements.

To ensure confidentiality, accuracy, consistency, and fairness, the Enrollment Commission through the Enrollment Office has developed these regulations. These regulations represent years of experience, trial and error, development and revision.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory. Unless defined elsewhere, terms defined in Chapter 1 and the Enrollment Ordinance are defined for the purposes of all Enrollment Regulations.

2-2. *Applicant* means the individual applying for enrollment, or the applicant's parent or legal guardian if the applicant is a minor or legally incompetent.

2-3. *Enrollment Officer* means the individual employed in the Enrollment Office, or his or her delegate unless specifically stated otherwise.

2-4. *Tribal elder* means a tribal member who is at least fifty-five years old and lives on or off of the reservation.

2-5. *Tribe* means the Little River Band of Ottawa Indians, except when used in connection with "Indian Tribe, band or group" in section 3-7(c).

Section 3. Application Processing

3-1. *Official Application and Process.* An applicant must file an application on a form approved by the Enrollment Commission. Official application forms may be made by written or verbal request to the Enrollment Office. An official application is a form approved by the Enrollment Commission which may be maintained in a paper or electronic format, but must be submitted in a paper format.

3-2. *Applicant Mailing Address.* All letters in regards to any application shall be sent to the applicant at the address identified in the application or as identified in a change of address form. It is the applicant's responsibility to maintain a current mailing address.

3-3. *Receipt of Application.* The Enrollment Office shall date stamp all applications upon receipt and log each application into the computer database. Applications begin processing in the order in which they are received, with the exception of Indian Child Welfare Act and Juvenile Code cases which is further addressed in Chapter 4 of these regulations. Also, the Enrollment Office may consolidate applications relating to a family to better allocate resources and time.

3-4. *Initial Review.* The Enrollment Officer shall conduct an initial review of the application to determine its completeness and forward one of the following responses.

a. *Letter of Acknowledgment.* A letter of acknowledgment which acts as a receipt, and documents when the Enrollment Office received the application.

b. *Request for Further Information.* A "Further Information Request" letter to an applicant which must be returned to the Enrollment Office within 30 days after mailing.

3-5. *Review of Records.* The Enrollment Officer shall create a draft family tree based on the information presented in the application. The parents, grandparents and other ancestors shall be verified based on the records presented and the enrollment files. The draft family tree shall identify:

a. the blood quantum of the relatives and ancestors;

b. the evidence presented to verify the relationship;

c. the recommendation of the Enrollment Officer to accept or reject the application for enrollment;

d. the proposed blood quantum of the applicant; and

f. the date that the Enrollment Officer recommended acceptance/rejection approved.

3-6. *Verification of Blood Quantum.* The Enrollment Officer reviews each application to verify that the applicant is at least –

a. $\frac{1}{4}$ Indian blood, of which at least $\frac{1}{8}$ degree must be Grand River Ottawa Blood or Michigan Ottawa blood, and

b. is a lineal descendant of –

1. a member of the historic Grand River Bands who resided in Manistee, Mason, Wexford or Lake Counties in the State of Michigan, who was listed on the schedule of Grand River Ottawa in the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910; or

2. individuals listed on the 1870 Annuity Payrolls of Chippewas and Ottawas of Michigan listed under the following Ottawa Chiefs:

A. Aken Bell

B. Ching gawa she

C. Kaw gay gaw bowe

D. Kewacushkum

E. Maw gaw ne quoung

F. Metaywis

G. Pay-quo-tush

H. Penayse

I. Shaw be quo ung; and

c. Is not currently enrolled in any other federally recognized Indian Tribe, band, or group.

3-7. *Enrollment Officer Recommendation.* The Enrollment Officer's recommendation to the Enrollment Commission shall consist of the following documents.

- a. A cover letter which briefly summarizes the recommendation regarding eligibility or ineligibility.
 1. The draft family tree.
 2. whether the enrollment record is audited or unaudited as set forth in Section 5 of the Enrollment Ordinance;
 3. The evidence/documents and the relationship to the draft family tree. Provided that, name and enrollment numbers shall be sufficient regarding members of the Tribe identified as relatives or ancestors.
 4. The evidence/documents recommended to be rejected as evidence and the reasons for that recommendation.

3-8. *Enrollment Commission Review.* The Enrollment Commission shall review the information presented on an individual application basis. No Enrollment Commissioner may utilize documentation or information other than that provided by the Enrollment Officer. Information known by an Enrollment Commissioner that is not based on evidence/documents presented to the Commission may be submitted for consideration. In the event information is presented by an Enrollment Commissioner, the Enrollment Commission shall refer the application back to the Enrollment Officer. The Enrollment Officer shall complete an investigation of the new facts and obtain third party verification of the information through an affidavit or other documentation. This affidavit cannot be completed by the Commissioner who provided the information or the Enrollment Officer. After the investigation has been completed, the Enrollment Officer makes a new recommendation, taking into consideration the additional information gathered, and forwards it to the Enrollment Commission.

3-9. *Enrollment Commission Decision.* Every decision of the Enrollment Commission shall be in the closed session minutes and identify:

- a. whether the applicant is eligible or ineligible;
- b. if eligible, the blood quantum;
- c. if ineligible, the specific reasons for ineligibility.
- d. if ineligible, the Enrollment Commission decision shall contain direction regarding any additional evidence which might be needed to approve the application.

3-10. *Written Provisional Decision.* The Enrollment Officer, based on the decision in the minutes of the Enrollment Commission, shall develop a written decision that is either –

- a. from the Enrollment Officer which shall identify the decision of the Enrollment Commission; or
- b. from the Enrollment Commission which shall be signed by the Chairperson of the Enrollment Commission.
 1. All written provisional decisions shall include the following language based upon whether the applicant is eligible or ineligible for membership in the Tribe:
 - A. In all decisions regarding eligibility and ineligibility, the following language shall be included in the written provisional decision.

You have a right to appeal the Enrollment Commission's provisional decision. The appeal must be made in writing and filed with the Enrollment Commission (via the Enrollment Department) within 30 calendar days from the date of this letter. You have the burden of proof on appeal.

If you are not satisfied with the Enrollment Commission's decision after the conference, you will receive a final decision from the Enrollment Commission and you can appeal that decision to Tribal Court within thirty days. Please keep in mind that failure to appeal the provisional decision to the Commission within 30 calendar days, bars your right to appeal to Tribal Court and this decision becomes final. Please refer to Sections 5 and 10 of the enclosed Enrollment Ordinance.

i. In all decisions regarding INELIGIBILITY, the following language shall be included in the written provisional decision.

You also have the right to re-submit an application at a later date.

ii. In all decisions regarding ELIGIBILITY, the following language shall be included in the provisional decision:

You also have the right to submit new information in the future which can demonstrate an increase in your blood quantum.

Section 4. Rules of Evidence

4-1. *Rules of Evidence.* These rules shall be utilized to provide consistency in the acceptance of evidence of eligibility for enrollment.

4-2. *Relevant Evidence.* Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of enrollment more probable or less probable than it would be without the evidence. All relevant evidence is admissible unless otherwise prohibited by these rules.

4-3. *Character Evidence.* Evidence of a person's character trait that would suggest the likelihood of an undocumented, and unable to be documented, family relationship must be presented by written testimony by a person or persons having knowledge of the truth of the alleged family relationship. Allegations of family relationships which cannot be proven by direct testimony may be proven by indirect testimony, provided that such indirect testimony may be verified by parties which are not likely to benefit as a result of the enrollment of the applicant. Such indirect testimony may be proven by one of the following methods.

a. *Other Actions of a Same or Similar Nature.* For the purposes of proving motive, opportunity, intent, preparation, or knowledge, evidence regarding the prior actions of an individual that tend to show an alleged family relationship that is unable to be documented.

b. *Habit; Routine; Practice.* For the purposes of proving the conduct of the person evidence showing prior actions that would tend to prove the alleged family relation is conformance

with the habit, routine, or practice.

c. *Reputation concerning personal or family history.* Reputation among members of a person's family by blood, adoption, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history.

d. *Reputation as to character.* Reputation of a person's character among associates or in the community.

4-4. *Hearsay.* Except as provided in section 4-3 or this section, hearsay is not admissible. Hearsay is a statement, other than one made by the declarant offered in evidence to prove the truth of the matter asserted. The following evidence is not excluded by this section.

a. *Present sense impression.* A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

b. *Excited utterance.* A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

c. *Then existing mental, emotional, or physical condition.* A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health).

d. *Statements for purposes of medical diagnosis or treatment.* Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

e. *Records of vital statistics.* Records or data compilations, in any form, of births, fetal deaths, deaths or marriages, if the report thereof was made to a public office pursuant to requirements of law. This includes Affidavits of Parentage if the document complies with tribal or state law.

f. *Records of religious organizations.* Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

g. *Marriage, baptismal, and similar certificates.* Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

h. *Family records.* Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

i. *Statements in ancient documents.* Statements in a document in existence twenty years or more the authenticity of which is established.

4-5. *Public Records.* Public records must be either originals or certified copies of documents existing in a governmental office. Newspapers and periodicals may be reproduced and sworn as to

the accuracy of the document, so long as the entire article with necessary reference information is available for viewing.

Section 5. Affidavits

5-1. *Three Affidavits.* A minimum of three notarized affidavits from Tribal members must be submitted to offer of proof of either ancestry or blood quantum (of either the applicant or a claimed ancestor) along with other information that may be taken into consideration. Each affidavit must be from a Little River Band of Ottawa Indians Tribal elder (fifty five years of age or older). If an applicant is 55 years or older he cannot submit an affidavit on his own behalf.

5-2. *Affiant.* Only notarized affidavits submitted by Little River Band Tribal elders or Tribal members at least fifty-five years of age are valid offers of proof.

5-3. *Content of Affidavit.* The affidavit must allege facts that establish the basis of the knowledge that the Tribal elder claims to have of the applicant's eligibility. This information must be specific and at least one full page, which must be hand-written.

5-4. *Use of Affidavits as evidence.* Evidence of a person's character trait that would suggest the likelihood of an undocumented, and unable to be documented, family relationship must be presented by written testimony by a person or persons having knowledge of the truth of the alleged family relationship. Allegations of family relationships which cannot be proven by direct testimony may be proven by indirect testimony, provided that such indirect testimony may be corroborated by at least two of the three affidavits from tribal elders who are not likely to benefit as a result of the enrollment of the applicant. Such indirect testimony may be proven by one of the following methods articulated in Section 4-3 (a)-(i).

5-5. *Weight of Affidavits.* When processing an enrollment application, the Enrollment Commission shall weigh each affidavit based on its reliability and credibility, as well as, its tendency to prove a particular fact or requirement.

5-6. *Notice.* Information regarding affidavits shall be described in the cover letter attached to the Enrollment application.

Section 6. Adoption; Amendment; Repeal

6-1. *Adoption.* This Chapter is approved by the Enrollment Commission on July 24, 2002, and approved by the Tribal Council on _____.

6-2. *Amendment.* This regulation may be amended by the Enrollment Commission in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians. Provided that, any amendments must be approved or adopted in the same manner as set forth in section 6-1.

6-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

6-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the 'spirit' of this regulation rather than complete compliance is acceptable.

6-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

6-6. *Effective Date.* This Regulation shall take effect on August 7, 2002.

Chapter 2. Records

Regulation # R200-01:EC-02

Section 1. Purpose; Authority

1-1. *Authority.* In accordance with Section 9 of the Enrollment Ordinance, # 97-200-01, the Enrollment Commission hereby promulgates these rules for maintaining and accessing records of the Enrollment Office.

1-2. *Purpose.* The purpose this regulation is to identify the types of records maintained by the Enrollment Office, how those records shall be maintained, and how those records may be accessed.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory.

Section 3. Type of Records

3-1. *Records.* An individual folder shall be established for each tribal member and applicant. This folder shall contain the following items.

- a. Application Form.
- b. Family Tree, draft and/or approved.
- c. Birth Certificate.
- d. Correspondence related to the application for enrollment, requests to review an individual file, third party requests for information, and other correspondence related to the individual file.
- e. Marriage record of parents, when applicable.
- f. Paternity statement when applicable.
- g. Copy of resolutions affecting enrollment.
- h. Death Certificate, if available.
- i. A checklist for easy viewing of what each folder contains.
- j. All other documents on the person pertinent to membership in the Tribe.

3-2. *Certificate of Degree of Indian Blood.* A Certificate of Degree of Indian Blood (*CDIB*) is an official document created by the Enrollment Office which identifies whether an individual is an enrolled member of the Tribe and the blood quantum of that individual. A CDIB is created at the request of an individual or by a program which an individual has requested to participate in of which membership is a requirement, element of qualification or may confer benefits. All requests for a CDIB shall be maintained in either the individual's file or a separate file as identified by the Enrollment Office.

- a. *Individual Request.* An individual must request a CDIB regarding his or her Indian blood by filing a written request with the Enrollment Office. Such requests will be completed in a timely manner and shall be either placed in regular first class mail to the address on file, the address on the request form (i.e. to a temporary address of the individual or to a third party office address), or held for pick-up as requested by the individual.
 - b. *Program Request.* The Enrollment Office maintains a working relationship with all programs of the Tribe to provide necessary information regarding Indian blood. A Tribal program request may be made in writing on a form approved by the Enrollment Office. The program request must be signed by a Department Director and approved by the Enrollment Officer and Director of Tribal Operations prior to processing the request. If the Enrollment Officer and/or Director of Tribal Operations rejects the request he must state the reasons. An external program may be made in writing on a form or other written document from the program which identifies authorization by the individual to release information regarding the individual's Indian blood.
- 3-3. *Updating Records.* Upon receipt of appropriate documentation, the Enrollment Office will update the information on the tribal roll and individual files. The following documentation is deemed adequate for such action to be taken.
- a. *Name Change.* Marriage License; Divorce Decree; Court Order-Changing Names
 - b. *Address Change.* Written statement signed by tribal member or his/her guardian.
 - c. *Death.* Death certificate; Bureau of Indian Affairs records; Mortuary Records; Hospital Records; Obituary Notice from Newspaper. Provided that, a written, signed statement from relative who attended funeral or Enrollment Officer must approve the change for which none of the above documents are available.
- 3-4. *Records Purging.* The following items will be purged from members' files after a period of three years:
- a. Change of address forms.
 - b. Documents which are not evidence related to enrollment or current name, address, family relationship with other individuals, etc.

Section 4. Access

- 4-1. *Access to Enrollment Office.* The Enrollment Office shall be arranged such that access to an Enrollment Officer shall not allow access to the enrollment records. The Enrollment Office shall identify office hours, phone numbers, fax numbers and e-mails, where appropriate, for contact by individuals, applicants, members, and others contacting requesting enrollment related information.
- 4-2. *Access to Records.* The Enrollment Office is the repository for all enrollment related records. Those enrollment related records are defined as including, but not limited to, files of individuals, computer databases containing compilations of information, and other records, listings, binders, files that contain information regarding a member or applicant for membership, whether or not the application has been denied. Enrollment related records are confidential and may not be copied, accessed, and/or distributed except as provided for in this Section.
- a. *Individual Review of Enrollment Related Record.* A member or applicant may file a

written request to review his or her enrollment related record. Such review shall be conducted in the Enrollment Office during normal office hours and under the supervision of an Enrollment Officer. Upon request, during a review, a member or applicant may request copies of the application, records previously supplied by the member or applicant, or the family tree. A request for copies may be subject to a fee for copying, and may be fulfilled at a reasonable time after the review.

b. *Enrollment Commission Review.* The Enrollment Commission may review a file during an application process or during an audit period, or for any reason related to the responsibilities of the Enrollment Commission and authorized by a majority vote of the Enrollment Commission during a duly called meeting.

4-3. *Third Party.* A third party may view the enrollment related record of another only by presentation of a written notarized authorization by the member. A third party is not authorized to remove, add to, or copy an enrollment related record.

4-4. *Amendment of the Enrollment Related Record.* An enrollment related record may be amended by adding to or deleting from, only under the following circumstances.

a. *Relinquishment.* The request to relinquish membership shall be included in the individual's file.

b. *Disenrollment.* The notice of disenrollment, evidence and determination of the Enrollment Commission.

c. *Change of Address; Name.* The official documents which identify a change of address or a change of name.

d. *Birth of Children; Marriage or Divorce Certificates; Death Certificates.* The official documents identifying the birth of children, a marriage or divorce certificate, or a death certificate.

Section 5. Adoption; Amendment; Repeal

5-1. *Adoption.* This Chapter is approved by the Enrollment Commission on July 24, 2002, and approved by the Tribal Council on _____.

5-2. *Amendment.* This regulation may be amended by the Enrollment Commission in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians. Provided that, any amendments must approved or adopted in the same manner as set forth in section 5-1.

5-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

5-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the 'spirit' of this regulation rather than complete compliance is acceptable.

5-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

5-6. *Effective Date.* This Regulation shall take effect on August 7, 2002.

Chapter 3. Release of Membership Information

Regulation # R200-01:EC-03

Section 1. Purpose; Authority

1-1. *Authority.* In accordance with sections 9.05 and 10.01 of the Enrollment Ordinance, # 97-200-01, the Enrollment Commission hereby promulgates these regulations.

1-2. *Purpose.* There are regular requests of the Enrollment Office to prepare mailing lists, address confirmations, statistical information and other records related to the membership of the Tribe. The purpose of these regulations is to identify how information is released by the Enrollment Office to third parties.

Section 2. Definitions

2-1. *General.* For purposes of this regulation, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory.

Section 3. General Requirements

3-1. *Requests Must be in Writing.* All requests for membership information must be in writing, identify the type of information requested, the purpose for which the information will be used, and signed by an authorized agent of the requesting party.

3-2. *Mailing Labels.* The Enrollment Office may create listings of categories of members and mailing labels regarding members if the following authorizations are forwarded. All recipients of mailing labels shall have placed on literature mailed the return address of the Enrollment Office and a "Return Address Correction" request on every envelope. Provided that, the Enrollment Office may determine that a "Return Address Correction" request is not necessary if the request identifies a request for an exception and the Enrollment Office determines that an address correction would not serve the purpose of keeping the membership addresses up-to-date.

3-3. *Election Board.* The Enrollment Office shall create mailing labels for candidates when requested on a form approved by the Election Board. The Election Board shall reimburse the Enrollment Office, or require the candidate to reimburse the Enrollment Office, the expenses related to creating the mailing labels. All candidates shall be required to sign an agreement that he or she shall not copy, create or maintain a list of addresses derived from the mailing labels received under this section.

3-4. *Tribal Programs.* Tribal programs and departments may request mailing labels by submitting a form approved by the Enrollment Office. A request for mailing labels shall clearly identify the purpose for the mailing and the category of membership for which mailing labels are requested. The program request must be approved by the Enrollment Officer and Director of Tribal Operations prior to processing the request. If the Enrollment Officer and/or Director of Tribal Operations rejects the request he must state the reasons. The Enrollment Office shall be reimbursed for the cost of creating mailing labels and recipients of mailing labels shall not copy, create or maintain a list of address

derived from the mailing labels received under this section. Recipients of mailing labels may be required to combine mailings with other programs and/or departments in the interests of reducing membership mailings.

3-5. *Third Party Requests.* The Enrollment Office shall place a third party request for mailing labels on the next available Enrollment Commission meeting agenda. A third party request for mailing labels shall identify the purpose for the mailing labels and the category of membership for which the mailing labels are requested. The Enrollment Commission shall determine if the request shall be approved, and if not, the reasons therefore. Third parties requesting mailing labels shall submit the documents being mailed to the Enrollment Office for processing and mailing.

3-6. *Address Collection.* The Enrollment Office is the official office for purposes of maintaining accurate addresses of the membership. The Enrollment Office shall maintain a form for the purposes of submitting address corrections. No address corrections shall be made other than by submission of a request either on the form provided by the Enrollment Office or by a signed writing by the member for which the address correction is requested. Tribal programs and departments are encouraged to maintain address corrections approved by the Enrollment Office for forwarding to members or including in program or department mailings.

Section 4. Adoption; Amendment; Repeal

4-1. *Adoption.* This Chapter is approved by the Enrollment Commission on July 24, 2002, and approved by the Tribal Council on _____.

4-2. *Amendment.* This regulation may be amended by the Enrollment Commission in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians. Provided that, any amendments must be approved or adopted in the same manner as set forth in section 4-1.

4-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

4-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the 'spirit' of this regulation rather than complete compliance is acceptable.

4-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

4-6. *Effective Date.* This Regulation shall take effect on August 7, 2002.

Chapter 4. Processing Indian Child Welfare Act and Juvenile Code Cases

Regulation # R200-01:EC-04

Section 1. Purpose; Authority

1-1. *Authority.* In accordance with Section 4.03 of the Enrollment Ordinance, # 97-200-01, the Enrollment Commission hereby promulgates these rules for processing applications that involve

children who may be eligible for enrollment and fall under the Indian Child Welfare Act ("ICWA"), 25 USC 1901-1952, the Children's Code, Ordinance # 98-900-01, and the Juvenile Code, Ordinance # 99-900-02.

1-2. *Findings.* The Enrollment Commission recognizes that there is no resource that is more vital to the continued existence and integrity of Tribe than its children. Oftentimes, Tribal children and parents are not enrolled and Tribal families are broken up by the removal of their children by non-tribal public and private agencies.

1-3. *Purposes.* The purposes of this regulation are to govern verifications of enrollment and processing applications for enrollment of children who may be eligible for enrollment in the Little River Band of Ottawa Indians and who fall under the ICWA, the Children's Code or Juvenile Code proceedings and if eligible, process the applications of the children's parent(s).

Section 2. Definitions

2-1. *General.* For purposes of this Chapter, certain terms are defined in this section. The word "shall" is always mandatory and not merely advisory.

2-2. *Child custody proceeding.* Pursuant to 25 USC 1903 of the Indian Child Welfare Act, "child custody proceeding" shall mean and include-

- a. "foster care placement" which shall mean any action removing an Indian child from its parents or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;
- b. "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;
- c. "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and
- d. "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

2-3. *Juvenile Code Proceedings.* Juvenile Code proceedings involve all cases that occur within the nine county area involving status and non-status offenses alleged to have been committed by a Tribal member who is a minor.

2-4. *Children's Code Proceedings.* Children's Code proceedings involve all cases that included in Sections 3.03-3.05 of the Children's Code.

Section 3. Enrollment Verifications

3-1. *Proceedings covered.* This Chapter shall apply to children who are involved or about to become involved in child custody proceedings pursuant to the Indian Child Welfare Act, 25 USC 1903(1), Section 3.03 of the Children's Code and juvenile proceedings as defined in Section 2 of the Juvenile Code who may be eligible for enrollment as a member of the Little River Band of Ottawa Indians.

3-2. *Requests.* Requests for determining if a child is an enrolled member of the Tribe may be made

by the Tribal Prosecutor's Office, Tribal Family Services Office, state agency or state court that has reason to believe that a child is involved in a proceeding that may be a member of this Tribe. The requests must be forwarded to the Enrollment Department. The request must state:

- a. the child's name and date of birth;
- b. the Indian parent(s) name and date of birth;
- c. the type of proceeding (i.e. child custody or juvenile proceeding); and
- d. any other information regarding the child's Indian ancestry.

3-3. *Verification.* The Enrollment Officer shall immediately verify whether the child is an enrolled member of the Tribe or if the child is eligible for membership and is a biological child of an enrolled member of the Tribe. The information must also include verification of the tribal member parent.

3-4. *Forwarding Information.* The Enrollment Officer shall send a statement to the person who requested the information immediately following the Enrollment Officer's verification. This statement shall include:

- a. If the child is enrolled,
 - i. a certification of the enrollment number of the child; and
 - ii. a certification of the enrollment number of the parent, if applicable; OR
- b. If the child is eligible to enroll,
 - i. a statement that the child is eligible for enrollment in the Tribe and a biological child of an enrolled member and list the parent's name (unless child is an adoptee); OR
- c. If the child is NOT an enrolled member of the Tribe and if the child is NOT eligible for membership in the Tribe, then a letter informing the agency or office of the child's status.

Section 4. Requests and Processing Applications.

4-1. *Processing Applications.* In the event that the Enrollment Officer determines that the child and/or parent is not an enrolled member of the Tribe, it shall automatically be presumed that the request is to process an enrollment application. The Enrollment Officer shall immediately process these applications. If information is missing, the Enrollment Officer shall make every effort to obtain the necessary information to process the application.

4-2. *Enrollment Commission Presentation.* At the next regularly scheduled meeting of the Enrollment Commission after the request has been received by the Enrollment Officer, the Enrollment Officer shall present the child's and parent's applications for the Enrollment Commission to review and approve or deny membership in the Tribe. If the application(s) is not complete, the Enrollment Officer shall inform the Enrollment Commission that a request has been filed under this regulation, the status of the enrollment application, and when the completed application will be presented to the Enrollment Commission.

4-3. *Forwarding Information.* The Enrollment Officer shall send a statement to the person who requested the information immediately following the Enrollment Commission meeting at which the decision regarding the application was made. This statement shall include:

- a. If the child is enrolled,
 - i. a certification of the enrollment number of the child; and

- ii. a certification of the enrollment number of the parent, if applicable; OR
 - b. If the child is eligible to enroll,
 - i. a statement that the child is eligible for enrollment in the Tribe and a biological child of an enrolled member and list the parent's name (unless child is an adoptee); OR
 - c. If the child is NOT an enrolled member of the Tribe and if the child is NOT eligible for membership in the Tribe, then a letter informing the agency or office of the child's status.
- 4-4. *Pending Audit.* An applicant will be reviewed for enrollment based on the information that the Enrollment Department and Commission have at the time that the application is being reviewed.

Section 5. Adoption; Amendment; Repeal

5-1. *Adoption.* This Chapter is approved by the Enrollment Commission on July 24, 2002, and approved by the Tribal Council on _____.

5-2. *Amendment.* This regulation may be amended by the Enrollment Commission in accordance with the Constitution and any rules set forth governing amendment of regulations of the Little River Band of Ottawa Indians. Provided that, any amendments must approved or adopted in the same manner as set forth in section 5-1.

5-3. *Severability Clause.* If any provision of this regulation or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to this end the provisions of this regulation are severable.

5-4. *Compliance.* In regards to compliance with this regulation, substantial compliance with the 'spirit' of this regulation rather than complete compliance is acceptable.

5-5. *Sovereign Immunity.* Nothing in this Regulation shall provide or be interpreted to provide a waiver of sovereign immunity from suit of the Tribe or any of its governmental officers and/or agents.

5-6. *Effective Date.* This Regulation shall take effect on August 7, 2002.